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IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

ROBERT E. BADHAM, *et al.*,

Appellants,

v.

MARCH FONG EU, *et al.*,

Appellees.

Appeal From the United States District Court for the Northern District of California

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED

1. Is a claim of unconstitutional gerrymandering of congressional districts barred by the fact that the plaintiffs' voting rights in another jurisdiction or level of government are not similarly affected?

2. Did the district court below err in effectively concluding that members of a major political party may never successfully maintain an action alleging unconstitutional political gerrymandering, thereby rendering this Court's decision in *Davis* v. *Bandemer* a nullity?

3. Did the district court err in refusing to recognize that the egregious discriminatory effects set forth in appellants' complaint far exceeded *Bandemer*'s requirement of more than a *de minimis* discriminatory effect on appellants' fundamental voting rights?

THE PARTIES

Appellants in this action are registered Republican voters and residents of California's congressional districts and include all members of the California Republican congressional delegation. Appellants include Robert E. Badham, Robert Naylor, Eric Seastrand, Aldo Silvestri, Michael W. Cobb, Frank O. Verlot, Donna S. Richardson, Peter Schrager, Jane Baker, Charles A. Meyer, Kirk Lindsey, Donald Driscoll, Roger T. Erickson, D.D.S., Cynthia Trobitz-Thomas, Lowell Landowski, Jack Hite, Mike Garza, Dennis McQuaid, Rosemary Thakar, Steve Eigenberg, David Williams, Michael Lacrone, Bob Nash, David Crevelt, Elton Gallegly, George Woolverton, Jerry Zerg, David Baird, Robert Kerns, Robert Scribner, George Adams, Carl Johnson, John W. Almquist, Jackson M. McMurray, Joyce Robertson, Charles House, Bob Henley, Wally Herger, Norman D. Shumway, Charles Pashayan, Jr., Robert J. Lagomarsino, William M. Thomas, Carlos J. Moorhead, David Dreier, Jerry Lewis, Al McCandless, Robert K. Dornan, William E. Dannemeyer, Bill Lowery, Daniel E. Lungren, Ron Packard, Bill Mitchell, and Duncan Hunter.

Appellee by virtue of her status as defendant in the case below is March Fong Eu, as Secretary of the State of California. Defendant-intervenors below and appellees here are the Assembly of the State of California and the twenty-seven Members of the California Democratic congressional delegation.

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JURISDICTIONAL STATEMENT

Appellants submit this statement particularly disclosing the basis upon which this Court has jurisdiction on appeal to review the judgment and decision of the United States District Court for the Northern District of California, sitting as a three-judge court.

OPINIONS BELOW

The memorandum opinion and order is set forth at pages 1a-24a of the Appendix ("App."). The concurring opinion is set forth at page 25a of Appendix A. The dissenting opinion has not been filed below but is expected shortly (App. A at 26a); appellants will file the dissenting opinion with the Court as soon as it is issued. The memorandum opinion and order has been ordered published, but has not yet appeared in the official reporter. The three-judge dis-

trict court produced three separate opinions. Circuit Judge Cecil Poole wrote the memorandum opinion; District Judge Alphonso Zirpoli wrote the concurring opinion, and District Judge Robert Schnacke dissented.

JURISDICTION

Appellants' complaint below sought preliminary and permanent injunctive relief against the enforcement of California's congressional redistricting statute, pursuant to 28 U.S.C. sections 1343(3) & (4), 42 U.S.C. sections 1983 and 1988, and 28 U.S.C. sections 2201 and 2202. A three-judge court was convened pursuant to 28 U.S.C. section 2284(a). The memorandum opinion and order of the three-judge court below, filed on April 21, 1988, granted a motion to dismiss the complaint with prejudice and denied any relief to appellants. Jurisdiction of this appeal is conferred on this Court by 28 U.S.C. section 1253.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case arises under: (a) article I, section 2, of the Constitution of the United States, which provides:

> The House of Representatives shall be composed of Members chosen every second Year by the people of the several States, and the electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature[;]

(b) Section 1 of the fourteenth amendment of the Constitution of the United States which provides in pertinent part: "No State shall make or enforce any law which will abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws;" (c) The first amendment of the Constitution of the United States which states in pertinent part: "Congress shall make no law . . . abridging the free-

dom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances;" and (d) article IV, section 4, of the Constitution of the United States which provides that "The United States shall guarantee to every State in this Union a Republican Form of Government,. . . ."

The text of A.B. 2X, the challenged congressional redistricting statute involved, is codified at California Elections Code 30030 *et seq.*, Stats. 1983, C.6, Sec. 3, 1st Ex. Sess.

STATEMENT OF THE CASE

This appeal follows the grant by a divided court below of the defendants' motion to dismiss with prejudice the appellants' Third Amended Complaint ("Complaint") on the ground "that plaintiffs are unable to state a federal constitutional claim." (App. A at 24a.) The court below took 16-1/2 months to rule on the motions to dismiss from the oral argument. This prompt appeal ensues.[1]

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[1] Appellants filed their original complaint below on March 4, 1983, alleging that the California congressional redistricting statute, Assembly Bill 2X ("A.B. 2X"), violated the federal Constitution and several state laws. Shortly thereafter, the California Democratic congressional delegation and California Assembly (without the knowledge or consent of its Republican members) were granted leave to intervene. The complaint raised federal equal protection, freedom of association, due process and one person, one vote challenges to A.B. 2X, and included several pendent state law claims. On June 20, 1983, the court granted intervenors' motion to abstain and stayed federal court proceedings until the state law issues were settled by the state courts. In December 1983 plaintiffs filed their Second Amended Complaint which raised only federal constitutional issues including that of partisan gerrymandering. (The pendent state claims were voluntarily dismissed.) Pursuant to agreement of the parties, the abstention order was vacated on June 21, 1985, and discovery was allowed to proceed. Three months later, on September 19, 1985, the district court again stayed all proceedings pending this Court's decision in *Davis v. Bandemer*, 106 S. Ct. 2797 (1986). This Court filed its decision in *Davis v. Bandemer* on June 30, 1986. *The next day* appellants asked the court below to vacate the stay and requested a status conference which was not convened until September 13, 1986. At the status conference the court continued its stay of

The allegations of the complaint, which are presumed true in determining the merits of a motion to dismiss,[2] are as follows:

The 1980 decennial census recorded a population gain in California entitling the state to 45 congressional seats, an increase of two seats. In September 1981, Assembly Bill 301 ("A.B. 301") was enacted as California's congressional redistricting statute for the 1980s. At the time, both houses of the California Legislature were controlled by Democratic party majorities and A.B. 301 was passed on party line votes and signed into law by then-Governor Edmund G. Brown, Jr., a Democrat. (Complaint section 9; App. C at 34a-35a.)

The process by which A.B. 301 was passed was aberrant and highly irregular. Republican legislators were totally excluded from the secretive, substantive work of designing the congressional district boundaries; the boundary lines were primarily drawn by or upon the recommendations of Democratic members of the California congressional delegation. No material hearing on the proposed district boundaries was held by any committee in either house of the Legislature. (Complaint section 10; App. C at 35a-36a.)

Shortly after passage, Californians who opposed A.B. 301 circulated and qualified referendum petitions by obtaining the signatures of over a million voters. This required that A.B. 301 be placed on the June 1982 statewide

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discovery, allowed appellants to file a Third Amended Complaint based on this Court's decision in *Davis v. Bandemer*, authorized defendants to file motions to dismiss and scheduled argument on the motions for December 5, 1986. Appellants repeatedly requested the court to act with speed, but to no avail. The opinion granting the motions to dismiss was not filed until April 21, 1988, some 16-1/2 months after oral argument. In the interim, appellants filed, on November 6, 1987, a Petition for Writ of Mandamus in the United States Court of Appeals for the Ninth Circuit, Action No. 87-7490, DC No. C-83-1126-RHS, seeking an order mandating the lower court to rule on the merits; the petition was pending at the time the opinion below was filed.

[2] *Conley v. Gibson*, 355 U.S. 41 (1957); 2A *Moore's Federal Practice*, para. 12.07 [2.-5] (1986 ed.).

ballot for voter approval or rejection. At that election, more than 60% of the voters rejected A.B. 301. Despite this clear expression of the electorate's will, the 1982 elections took place in the rejected A.B. 301 districts pursuant to order of a divided California Supreme Court. *Assembly* v. *Deukmejian*, 30 Cal. 3d 638 (1982). The A.B. 301 districts resulted in the election in November 1982 of 28 Democrats and 17 Republicans to Congress, a remarkable gain for Democrats (especially when Republicans were increasing in number) over their razor-thin 22 to 21 1980 edge. (Complaint section 11; App. C at 36a.)

The voters' rejection of A.B. 301 required the drawing of a new congressional redistricting plan for the 1984 elections. The California Legislature did not address this task until, at the November 1982 general election, Republican George Deukmejian won an upset victory and was to become Governor on January 2, 1983. Although the next congressional primary election was 19 months distant, Democratic Governor Brown ordered an extraordinary session of the California Legislature to convene on December 6, 1982. On that date, a proposed congressional redistricting bill, Assembly Bill 5X ("A.B. 5X"), was introduced; it was a bare vehicle bill which contained no description of any proposed congressional districts. Such descriptions, which consisted solely of long lists of geographic census units, were amended into the bill on the floor of the state Assembly late on December 27. Prior to that time, no Republican member of the Legislature was informed of the proposed district boundaries. A.B. 5X, as amended, passed the Assembly on December 28, 1982 on a party-line vote of 41 to 29. (Complaint section 12; App. C at 36a-37a.)

By the time A.B. 5X reached the state Senate on December 29, time was too short to permit its passage by the Senate, because article IV, section 8 of the California Constitution requires that a bill be read on three separate days in each legislative house prior to final passage. The Democratic majority solved this dilemma by utilizing Assembly Bill 2X ("A.B. 2X"), the state Board of Equali-

zation redistricting bill which had previously passed both houses of the Legislature and was sitting on the Governor's desk for signature. Early on December 29, in a highly unusual and remarkable procedural move, A.B. 2X was removed from the Governor's desk, returned to the Senate, and amended to add the congressional district descriptions of A.B. 5X. On the afternoon of that same day, A.B. 2X as amended was passed in the Senate on a strict party-line vote, 21 to ten. The bill was immediately returned to the Assembly and approved a few hours later, late in the evening of December 29, 1982, on a 41 to 29 party-line vote. The Legislature then adjourned and on Sunday, January 2, 1983, several hours before leaving office, Governor Brown signed A.B. 2X into law (*See*, App. D at 62a.) (Complaint section 16; App. C at 38a-39a.)

The only reason for processing A.B. 2X with such urgency was to prevent the incoming Republican Governor from participating in the redistricting process. The legislature's haste resulted in numerous errors in A.B. 2X of great consequence; many weeks after the bill was passed, the Democratic chairman of the Assembly Elections and Reapportionment Committee ordered staff to prepare 21 corrections to A.B. 2X which were transmitted to and implemented by the Democratic Secretary of State two months after the bill was signed into law. No Republican legislator was informed of the corrections, which shifted approximately 38,000 California citizens among various districts. (Complaint sections 17-18; App. C at 34a-40a.)[3]

A.B. 2X carves up the state of California so as to allocate congressional districts to Democrats in numbers far in excess of their voting strength, with the effect of controlling and distorting the composition of California's

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[3] As passed and enacted, A.B. 2X contained unconstitutional population deviations which were challenged in one of the causes of action in the appellants' original complaint filed on March 4, 1983. On March 17, 1983, the 21 corrections (which had already been executed by the Democratic Secretary of State) were made public; they effectively eliminated appellants' population-based claim. Shortly thereafter, appellants filed a first amended complaint to account for the Secretary's actions.

congressional delegation throughout the 1980s. The voter-rejected districts of A.B. 301 were the building blocks for the A.B. 2X districts and are comparable in partisan impact. A.B. 2X merely fine tunes the partisan impacts of A.B. 301 by reinforcing electoral advantages bestowed on Democrats with information gained from the 1982 election results. (Complaint sections 19-20; App. C at 40a-41a.)

The craftsmen of A.B. 2X employed sophisticated computer technology to refine gerrymandering methodology to dismantle, merge, and distort Republican voting strength and dilute and persistently degrade Republican votes both statewide and district by district throughout the decade. The Legislature, in crafting A.B. 2X, intended to enhance Democratic voting strength and electoral opportunities in the House of Representatives to the detriment of Republican voters and candidates. (Complaint sections 20-21; App. C at 41a.)

The gerrymander: (a) Arbitrarily eliminated three incumbent Republican members of Congress by placing multiple Republican incumbents in the same new district. In contrast, no 1980 Democratic incumbent had another Democratic incumbent placed in his or her district; (b) Deprived Republican incumbents of large portions of their former constituencies and fragmented concentrations of Republican voting strength among two or more districts; (c) "Awarded" California's two new congressional seats to Democrats by manipulating district boundaries to create Democratic voting advantages and minimize competition in those districts; (d) Reduced Republican voting strength in marginally competitive districts by removing Republican voters or adding Democratic voting strength; (e) Preserved old district lines and core voting strength for Democratic incumbents; (f) Packed Republican voters into congressional districts greatly in excess of the percentage needed to elect a candidate of their choice, thus wasting and diluting Republican votes; and (g) Virtually guaranteed immutable election results and a 27 to 18 majority in the California congressional delegation throughout the 1980s. (Complaint section 21; App. C at 41a-44a.)

The shapes and configurations of the A.B. 2X districts deviate substantially from objective criteria and cannot be justified or explained except as indicia of deliberate and invidious partisan gerrymandering. The district boundaries twist and wind their way across the state map to fragment or pack far-flung pockets of Republican voting strength in order to limit Republican opportunities for electoral success. (Complaint section 22; App. C at 44a.) This is because the drafters of A.B. 2X knew there are identifiable groups of California voters whose voting behavior is constant and can be ascertained from past elections and predicted in future elections. Republican voting strength, including registered Republicans and those who tend to vote for Republican candidates, can be so ascertained and predicted. The geographical distribution of Republican voters in California could be and was taken into account in drawing the congressional district boundaries of A.B. 2X (Complaint sections 2-3; App. C at 33a). The district boundaries defy description (See maps, App. D at 77a-169a.)

The A.B. 2X districts likewise violate numerous political boundary lines of cities and counties in order either to dilute Republican voting strength or to create Democratic districts.

A.B. 2X has also eliminated electoral competition in California's congressional races, and perpetuated a Democratic majority in the state's delegation to Congress. The November 1984 congressional elections under A.B. 2X saw 50.1% of the two-party vote cast for Republican candidates versus 49.9% for Democratic candidates, but the gerrymander resulted in Republicans winning only 18 (40%) of the congressional seats compared with 27 (60%) for Democrats. Thus, even though Republican congressional candidates received *more* of the two-party vote than did the Democrats, they received *far fewer* seats.[4] In 1984, no

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[4] Of California's 45 seats, the one that changed hands in 1984 was district 38, consisted of large portions of Orange County with unique circumstances. Robert Dornan, a well-known 1980 Republican incumbent from old district 27, which was dismantled in A.B. 301, ran and

congressional races were decided by less than eight percentage points and only two congressional races were decided by less than ten percentage points. Eight races were decided by margins greater than 50%, 13 by margins greater than 40%, nine by margins greater than 30%, ten by margins greater than 20% and three by margins greater than 10%. (Complaint sections 26,28; App. C at 47a-50a.)

The lack of competition in the 1986 elections was even more pronounced. Because of appellants' confidence that the results of the gerrymander are so predictable, the Complaint (filed on October 1, 1986) requested the court below to take judicial notice of the November 1986 congressional elections. (Complaint section 27; App. C at 49a.) Those election results again demonstrated the effect of the gerrymander. (*See* App. G at 200a.) All 45 members of Congress were reelected and no race was remotely competitive. The closest election (district 38) was won with a margin of 12.9% of the the vote. Because of the gerrymander, the partisan composition of the California congressional delegation throughout the 1980s will remain immutable. The gerrymander becomes more effective with each passing year. (Complaint sections 26-7; App. C at 47a-49a.)

The bizarre district configurations of A.B. 2X cause voter confusion and apathy, make it difficult to recruit effective challengers, increase the difficulty and expense of campaigning, and thereby entrench incumbent advantage. This lock-in of the gerrymander frustrates the reasonable hope of Republican voters to effectuate changes in public policy through the election of persons who share similar beliefs. (Complaint sections 24,28; App. C at 46a, 50a.)

A.B. 2X allocates a substantial and permanent majority of congressional seats to Democratic party candidates in percentages far superior to the statewide voting strength of Democratic voters, thereby maximizing the efficiency of Democratic votes and wasting Republican votes. The

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won in new district 38 after moving his home there. His margin of victory was eight percentage points, the closest of any A.B. 2X district.

craftsmen of A.B. 2X carved California up into 45 congressional districts so as to preordain the partisan makeup of California's delegation to the United States House of Representatives. The gerrymander allows this to occur despite the fact that the relative two-party voting strength is, at a minimum, equal and growing more Republican with each passing election. Virtually every Democratic incumbent is insulated from effective electoral opposition throughout the decade and thus from the need to be responsive to, or representative of, the shifting opinions and convictions of California voters. (Complaint section 26; App. C at 47a-49a.)

A.B. 2X substantially disadvantages Republican voters in their opportunity to influence effectively the election of members of the United States House of Representatives and discriminates against Republican voters by purposefully diluting, minimizing, or cancelling out their votes and voting strength statewide and in individual districts across the state. (Complaint sections 3, 20 & 29; App. C at 33a, 41a & 50a.) A.B. 2X is one of the most if not the most egregious partisan gerrymander of the 1980s.[5] Its boundaries are arbitrary, capricious, and not necessary to advance any legitimate state policy. (Complaint section 30; App. C at 51a.)

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[5] The literature of the political science, statistical and geographic communities strongly supports the conclusion that A.B. 2X is the most egregious example of blatant gerrymandering of the 1980s. *See, e.g.*: Robertson, *American Redistricting in the 1980s: The Effect on the Midterm Elections*, 2 Electoral Studies 113, 129 (1983) ("California serves as a textbook example of a successful partisan gerrymander. . . ."); Schwab, *The Impact of 1980 Reapportionment in the United States*, 4 Pol. Geog. Quarterly 141, 151 & 155 (1985) ("The most important gerrymandering in the country occurred in California."); Bullock, *The Inexact Science of Congressional Redistricting*, 15 PS 431, 437 (1982) (". . . most visibly and blatantly, California. . . ."); Ehrenhalt, *Reapportionment and Redistricting* in The American Elections of 1982, 44 at 48-9 & 57-8 (T. Mann and N. Ornstein, eds., 1982) (". . . much larger scale [than the plan challenged in Indiana]"); Cain, *Assessing the Partisan Effects of Redistricting*, 79 Amer. Pol. Sci. Rev. 320, 330-31 (1985) ("With the new incumbents in place, the situation . . . shows the almost perfect inefficiency [of the Republican vote]").

THE QUESTIONS ARE SUBSTANTIAL

I. THE COURT BELOW ERRONEOUSLY CONCLUDED THAT MEMBERS OF MAJOR POLITICAL PARTIES CANNOT MAKE A SUCCESSFUL CLAIM OF POLITICAL GERRYMANDERING.

A. The Court Below Has Distorted *Davis* v. *Bandemer* to Mean Egregious Political Discrimination in Drawing Congressional Districts Is Permissible Unless it Affects a Group of Voters' Influence on all Levels of the Political Process.

The court below has either seriously misread or simply refused to follow *Davis* v. *Bandemer*, 106 S. Ct. 2797 (1986) ("*Bandemer*"). The *Bandemer* plurality set forth two elements to an equal protection claim—discriminatory intent and effect.[6] The district court correctly recognized that appellants have clearly alleged a discriminatory intent. *Badham* v. *Eu* ("*Badham*"), No. C-83-1125 RHS, slip op. at 12 (N.D. Cal. Apr. 21, 1988) (App. A at 11a). The court did not and could not dispute appellants' allegations that A.B. 2X was consciously designed and implemented to dilute Republican voting strength.

The court below, however, failed to correctly apply *Bandemer*'s requirement of discriminatory effect. In evaluating the second element of the equal protection claim—discriminatory effect—the district court relied almost exclusively on this Court's statement in *Bandemer* that:

> [U]nconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole.

Bandemer, 106 S. Ct. at 2810.

We submit that the district court grievously misunderstood the meaning of this statement and interpreted it

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[6] The district court concluded that, on the basis of *Bandemer* and *Wesberry* v. *Sanders*, 376 U.S. 1 (1964), claims of egregious congressional gerrymandering are properly justiciable.

inconsistently within the context of the entire plurality opinion. Instead of focusing its inquiry on the congressional electoral process in California, the court below incredibly shifted its attention to Republican electoral successes statewide and nationally:

> California has a Republican governor, and one of its two senators is a Republican. Given also that a recent former governor of California has for seven years been President of the United States, *we see the fulcrum of political power to be such as to belie any attempt of plaintiffs to claim that they are bereft of the ability to exercise potent power* in 'the political process as a whole' because of the paralysis of an unfair gerrymander.

Badham, slip op. at 19 (App. A at 19a) (emphasis added).

Thus, the court below inexplicably concluded that appellants' right to fair and effective representation in Congress is irrelevant. It is clear, however, from the context of this Court's opinion in *Bandemer* that the electoral system to which this Court refers is not the whole national political process or even a whole state's political process. Rather, it is the political process directly involving or resulting in election to the offices which are the focus of appellants' complaint—Congress and congressional districts.

The district court incorrectly interpreted *Bandemer* as requiring a "threshold showing" that California Republicans have been "shut out" of "the political process as a whole." *Badham*, slip op. at 14, (App. A at 12a-13a). Seizing on these few words, the district court construed them out of context to mean that if Republican voters can elect candidates to statewide office (which, by definition, cannot be gerrymandered), then they have not been "shut out" and their right to vote for, and to fair and effective representation in, Congress is irrelevant under the equal protection clause.

The district court failed to understand that the political success of Republicans in non-gerrymandered statewide

elections in California is an indicium of the harshness of A.B. 2X's discriminatory effects, rather than an excuse for a gerrymander. Appellants have alleged, and the experience of congressional elections in California indisputably demonstrates, that the ability of Republicans to "effectively influence the political process" of the election of members of Congress from California has been dramatically diminished. A.B. 2X arranges the congressional electoral system in a manner that has consistently denigrated, and will continue to denigrate, Republican voters' influence on the political process in the House of Representatives. By focusing on statewide elections rather than the congressional elections at issue in the complaint, Judge Poole simply misread *Bandemer*.

B. The Relevant Inquiry under *Bandemer* Is the Extent to which There Is Discrimination in Congressional Districting.

In voting rights cases—whether involving racial discrimination or population distortions—this Court has historically focused its principal inquiry on the jurisdiction at issue. The district court's determination that a group's political success at one level of government bars that group from successfully proving vote dilution and discrimination in other levels of government defies both common sense and this Court's jurisprudence.

Taken to its logical conclusion, the district court's reasoning would suggest that, once a group achieves some degree of political success, constitutional protections for that group evaporate. Does the political success of Mayor Thomas Bradley in Los Angeles mean that the equal protection clause no longer protects black voters from the racial gerrymandering of city council districts? Do the successes of presidential candidate Jesse Jackson diminish constitutional protections for blacks in the states of his primary victories? Judge Poole's rationale requires affirmative answers to these questions.

The district court made a "quick comparison with the facts of the racial gerrymandering cases on which *Ban-*

demer was based [to demonstrate] the distance of the Republicans from alleging a claim." *Badham*, slip op. at 21 (App. A at 18a). As might be expected of a "quick comparison," it was both incomplete and inappropriate and stems from the district court's erroneous belief that to state a claim, a political group must be "shut out" entirely of political processes at all levels of government, or "treated as political pariahs." *Badham*, slip op. at 21 (App. A at 19a.). Rather, this Court's precedents recognize that the dilution, minimization or cancelling out of voting strength is actionable. *Whitcomb* v. *Chavis*, 403 U.S. 124, 143 (1970); *Fortson* v. *Dorsey*, 379 U.S. 433 (1965); *Burns* v. *Richardson*, 384 U.S. 73 (1966). *See also*, *White* v. *Regester*, 412 U.S. 755, 765-66 (1973); *Rogers* v. *Lodge*, 458 U.S. 613, 617 (1982).

Contrary to the lower court's "quick comparison" only to extreme racial discrimination cases, in many recent racial vote dilution cases the minority was not totally excluded or shut out from the political process. In *Thornburg* v. *Gingles*, 478 U.S. 30 (1986), for example, this Court did not reject out of hand the vote dilution claims of the black plaintiffs simply because blacks had, in some districts, achieved electoral success.[7] Nonetheless, that is the clear conclusion the district court incorrectly reached from its reading of that case. *Badham*, slip op. at 21, App. A at 19a.

C. Fair and Effective Representation in Congress Is Protected by the Equal Protection Clause and Is Vitally Important to California Republicans.

Judge Poole maintained that appellants' complaint fails in part because of its "[p]articularly conspicuous" absence

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[7] Even though this Court concluded that a district court may "appropriately take account of the circumstances surrounding recent black electoral successes in deciding its significance" to a claim under the Voting Rights Act, this Court specifically held that the district court did not err "in refusing to treat the fact that some black candidates have succeeded as dispositive" of a vote dilution claim. *Thornburg* v. *Gingles*, 106 S. Ct. 2752, 2779-80 (1986).

of "any allegation that plaintiffs' interests are being 'entirely ignore[d]' by their congressional representatives," *Badham* slip op. at 14 (App. A at 13a). The court below rejected the fact that significant policy differences exist between political parties and their candidates, so the political views of Republican voters in individual gerrymandered districts or statewide will not be adequately reflected by the particular congressmen elected under A.B. 2X. Appellants' complaint contains numerous allegations on this point. (*See, e.g.* Complaint sections 20, 26 & 28; App. C at 41a, 47a-50a.) A.B. 2X promotes—and appellants' complaint alleges—just the sort of "lack of responsiveness by those elected to the concerns of the relevant groups" noted by Justice White in *Bandemer*, 106 S. Ct. at 2810 (citing *Rogers* v. *Lodge*, 458 U.S. 613, 625-27 (1982); *White* v. *Regester*, 412 U.S. 755, at 766-67 (1973)).[8]

The House of Representatives is the institution of our national government which was designed to be most responsive to the changing will of the electorate. Insulation of the California delegation from the will of the electorate violates fundamental notions of our democracy:

> As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration [the House of Representatives] should have an immediate dependence on, and an intimate sympathy with, the people.

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[8] Appellants also find support in Justice Powell's statement in *Bandemer* that:

> it defies political reality to suppose that members of a losing party have as much political influence over [its elected officials] as do members of the victorious party. Even the most conscientious [legislators] do not disregard opportunities to reward persons or groups who were active supporters in their election campaigns. Similarly, no one doubts that partisan considerations play a major role in the passage of legislation and the appointment of state officers.

Bandemer, 106 S. Ct. at 2830 (Powell, J., concurring in part, dissenting in part).

The Federalist No. 51, at 329 (J. Madison or A. Hamilton) (Henry Cabot Lodge ed. 1892).

As Justice O'Connor noted in her concurrence in *Bandemer*, "The preservation and health of our political institutions, state and federal, depends to no small extent on the continued vitality of our two-party system, which permits both stability and *measured change*." *Bandemer*, 106 S. Ct. at 2817 (O'Connor, J., concurring) (emphasis added). There is no measured change under A.B. 2X. The composition of the California congressional delegation—comprising more than one-tenth of the entire membership of the Congress of the United States—has been substantially isolated from partisan change through a crude but clever gerrymander.

In recent years, the outcome of enormously significant policy votes could have been affected by a slight alteration in the political composition of the California congressional delegation. Were it not for the A.B. 2X gerrymander, appellants would have been able to elect additional congressmen, whose votes might have altered the outcome of important congressional and national policy issues.[9] Appellants were willing to produce and are capable of producing evidence that the clear political and philosophical differences between the major political parties and their candidates do indeed matter to voters in congressional elections.

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[9] The difference in voting patterns between the Democratic and Republican members of California's congressional delegation is quite stark. In a recent rating of California's congressional members on the basis of key votes, the Americans for Democratic Action (ADA) gave California Democrats an average rating of 82 and California Republicans an average rating of four. The range of ADA ratings for individual Democrats was from 70 to 100, while the range for Republicans was from zero to 25. In contrast, the American Conservative Union (ACU) gave the same Democratic delegation an average rating of six and California Republicans an average rating of 88. The range of ACU ratings of the Democrats was from zero to 23, while the range for Republicans was from 64 to 95. Barone & Ujifusa, *The Almanac of American Politics 1988* at 67-181 (1987).

II. IF THE EGREGIOUS DISCRIMINATORY EFFECTS OF CALIFORNIA'S CONGRESSIONAL REDISTRICTING STATUTE ARE NOT THE BASIS FOR A PRIMA FACIE CLAIM, NO SET OF ALLEGATIONS OR FACTS CAN BE, AND THE RIGHTS ADUMBRATED IN *BANDEMER* ARE EVANESCENT.

The record in *Bandemer* appears positively ectomorphic when contrasted with the serious discriminatory effects of A.B. 2X. The *Bandemer* plurality rejected the notion that "*any* interference with an opportunity to elect a representative of one's choice would be sufficient to allege or make out an equal protection violation . . ." *Bandemer*, 106 S. Ct. at 2811 (emphasis in original), and declined an invitation to become involved in "attack[s] on minor departures from some supposed norm." *Id.* That appears to have been the case in *Bandemer*, where the challenged districting's "only concrete effect on the Democrats in Indiana" was the "possibly transitory results" of one election, *Id.* at 2814.

The *Bandemer* plurality required that plaintiffs in a gerrymandering challenge must allege and prove more than a *de minimis* discriminatory effect to make a prima facie case of illegal discrimination. *Id.* However, this "heightened effect" requirement is "the only real difference between this type of equal protection claim and others." *Id.* at 2815 n.19. The district court below perverted *Bandemer*'s "more than a *de minimis* effect" requirement in such a way as to render meaningless *Bandemer*'s holding that partisan gerrymandering claims are justiciable. While the district court in *Bandemer* may have accepted too little evidence of discriminatory effect, the court below demands far too much.

Judge Poole contends erroneously that appellants could *never* allege sufficient discriminatory effect because, among other things, a California Republican is President of the United States and California has a Republican Governor and United States Senator. *Badham*, slip op. at 18 (App.

A at 17a). *Bandemer* imposes no such requirement; it is purely the handiwork of the district court. Under *Bandemer*, evidence of persistently degraded political influence in the form of repeatedly disproportionate election results, predictable future election results causally connected with district boundary manipulation and a lack of electoral competition is sufficient proof of discriminatory effect. Appellants expressly pleaded the existence of these as well as many other discriminatory effects of A.B. 2X.

The complaint below alleges discriminatory effects far more serious than those in *Bandemer* and is certainly sufficient to meet the plurality's criteria of continuing discriminatory effect.

> [A]n equal protection violation may be found only where the electoral system substantially disadvantages certain voters in their opportunity to influence the political process effectively. In this context, such a finding of unconstitutionality must be supported by evidence of *continued frustration* of the will of a majority of the voters or effective denial to a minority of voters of a fair chance to influence the political process.

Bandemer, 106 S. Ct. at 2811 (emphasis added). Thus the plurality recognized that unconstitutional discrimination occurs when the electoral system is arranged so as to "*consistently degrade*" the influence of a voter or a group of voters. *Id.* The allegations of the complaint herein clearly meet these criteria. (*See*, Complaint sections 3, 21 & 26-29; App. C at 33a, 41a, 47-51a.)

The crucial element of proof of discriminatory effect is that a redistricting plan "locks in" unfair election results. *Bandemer*, 106 S. Ct. at 2812.

Under *Bandemer*, disproportionate results in a single election do not, without more, prove discriminatory effect. It is another thing altogether, however, where a redistricting plan (such as A.B. 2X) virtually dictates electoral outcomes and representation for an entire decade, locking

an unfair system of representation into place with non-competitive districts. This distinction was recognized by Justice Brennan's majority opinion in *Thornburg* v. *Gingles*, which was decided on the same day as *Bandemer*:

> [t]he *usual predictability* of the majority's success distinguishes *structural* dilution from the mere loss of an occasional election. *Cf. Davis* v. *Bandemer*, ___U.S. ___, ___, 106 S.Ct. 2797, ___, 89 L.Ed.2d ___(1986) (opinion of White, J.).

Thornburg, 106 S. Ct. at 2767 (emphasis added) (citations omitted).

Appellants' complaint below alleged not one, but three sets of elections, involving 135 congressional races in which *only one seat* changed hands. Additionally the complaint alleged that the ratio of Democratic seats to Republican seats is a "predictable consequence" of A.B. 2X, and a "reliable prediction" of election results throughout the rest of the decade. (Complaint section 27; App. C at 49a). This was not mere speculation. Appellants' complaint was filed five weeks before the November 1986 elections and alleged that the partisan composition of the state's congressional delegation "will remain virtually immutable in 1986." (Complaint section 27; App. C at 49a.) That prediction was accurate: 27 Democrats and 18 Republicans were elected, the same as in the 1984 elections. Not a single seat changed parties. Appellants alleged numerous indicia relevant to discriminatory effect, many of which were above and beyond those mentioned in—or specifically required by—*Bandemer*. *See* Statement of the Case, *supra*.

The effects of A.B. 2X are sufficiently serious to require intervention by this Court to protect the rights of appellants to have an effective voice in California's congressional election process. Justice White expressed confidence "in the lower courts' abilities to distinguish between disproportionality *per se* and *the lack of fair representation that continued disproportionality in conjunction with other indicia* may demonstrate." *Id.* at 2816 n.21 (emphasis added). The court below failed to make such a

distinction. For over five years, the district court below has allowed the archetypal gerrymander of the 1980s to go unchecked, uncondemned, and uncorrected. If appellants' allegations against the California gerrymander do not meet *Bandemer*'s requirement of heightened effects, *no set of allegations or facts by Democrats or Republicans will ever do so.*[10]

III. THE DISTRICT COURT HAS, IN EFFECT, RENDERED THIS COURT'S DECISION IN *DAVIS* V. *BANDEMER* A NULLITY.

The impact of Judge Poole's opinion is to reject this Court's decision in *Bandemer*. The court below concluded that since California Republican voters have successfully elected Republican candidates in some statewide elections, they have no right to challenge the unconstitutional political gerrymandering of the state's 45 congressional districts. Were such a case to be brought anywhere in the nation by Democrats, under the district court's reasoning, the numerous electoral successes of candidates of that party in other jurisdictions would mean that Democrats could be afforded no protection against a Republican gerrymander, no matter how gross or distorting of voter will. Thus, Judge Poole's opinion is based on the untenable conclusion that, even though *Bandemer* held that claims of partisan gerrymandering are justiciable, it set an unattainable evidentiary standard that no member of either of the two major political parties could ever satisfy.

This Court is well aware that, in just two years, the 1990 decennial census will result in the reapportionment and redistricting (for the 1992 elections) of the United States House of Representatives, state legislatures, and

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[10] Judge Poole's opinion places significant emphasis on his invitation to appellants' counsel to allege additional effects, but it was a meaningless proposal. At oral argument it was clear to appellants that the district court viewed Republican electoral success nationally and in statewide elections, as an absolute bar to appellants' claim. Judge Poole's opinion bears this out. Appellants could not allege that Republican candidates never win statewide elections in California.

political subdivisions of every state. The law of redistricting is being outpaced by the technology of redistricting. Computer technology has dramatically changed the nature of the process. As Justice Stevens has recognized:

> Computers now make it possible to generate a large number of alternative plans, consistent with equal population guidelines and various other criteria, in a relatively short period of time, and to analyze the political characteristics of each one in considerable detail.

Karcher v. *Daggett*, 462 U.S. 725, 752 (1983) (Stevens, J., concurring). *See also id.* at 776 (White, J., dissenting).[11]

A refusal by this Court to offer relief from the most egregious partisan gerrymander in America will be an irresistible invitation to those parties in power throughout our nation to satisfy their last paroxysm of partisan lust and use computer-generated cartography to maximize their political advantage.[12] As it did in *Baker* v. *Carr*, 369 U.S. 186

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[11] There is considerable agreement within the political science and statistical communities that modern computer techniques can be used, not only to assist in producing redistricting plans, but also to measure effectively the base voting strength of any political party, especially mainstream parties, even in the absence of voter registration information. *See, e.g.*, Backstrom, Robins & Eller, *Establishing a Statewide Electoral Effects Baseline*; Niemi, *The Swing Ratio as a Measure of Partisan Gerrymandering*; Kernell & Grofman, *Determining the Predictability of Partisan Voting Patterns in California Congressional Elections, 1978-1984*; *et al.* in Toward Fair and Effective Representation: Political Gerrymandering and the Courts (B. Grofman, ed., 1988 forthcoming). Such use was alleged here.

[12] "One might add that the California congressional stakes are quite real in national terms. With 45 districts (and more likely after 1990), the state accounts for more than one-tenth of the 435 seats of the House of Representatives. In some future time, as California goes, so also may go the House of Representatives. And, in the more immediate context of judicial policy-making, as the court goes in the forthcoming California case, so may go the nation as far as the permissible limits of partisan gerrymandering." Longley, *Partisan Gerrymandering*, 10 A.P.S.A. Newsletter 1, 67 (1986).

(1962), this Court in *Bandemer* expressed great confidence in the ability of the federal district courts to apply equitable principles in an expanding area of jurisprudence. 106 S. Ct. at 2805. The district court below has failed to act in the equitable manner envisioned by this Court and has, instead, badly confused and damaged the state of the law of political vote dilution.

Unless this Court corrects the lower court's misguided interpretation of its decision in *Bandemer*, its holding in *Bandemer* that claims of egregious political gerrymandering are justiciable

> is only a promise to the ear to be broken to the hope, a teasing illusion like a munificent bequest in a pauper's will. *Edwards* v. *California*, 314 U.S. 160, 186 (1941) (Jackson, J., concurring).

IV. APPELLANTS DEMAND PROTECTION OF THEIR CONSTITUTIONAL RIGHTS OF "FAIR AND EFFECTIVE" REPRESENTATION, NOT PROPORTIONAL REPRESENTATION.

This Court has repeatedly made clear that no group—political or otherwise—is entitled to representation in proportion to its strength in the population. *Bandemer*, 106 S. Ct. at 2814; *City of Mobile* v. *Bolden*, 446 U.S. 55 (1980). In the tortuous and almost incomprehensible five-year ordeal of this litigation, appellants have *never* argued that lack of proportional representation states a claim sufficient under any constitutional provision. Proportional representation is not a *goal* of redistricting or of this case. Rather, the lack of any rational relationship between votes cast and seats won is one of many *indicia* of the scope of this gerrymander.

Of course, even though proportionality is merely a measure of a gerrymander, not a constitutional mandate, it is not altogether reasonable in a majoritarian, federal system that the party that wins more votes should be arbitrarily prohibited from winning more than 50% of the seats in question. Yet, the effect of A.B. 2X is just that. In the

1984 congressional elections in California, Democrats were elected to 27 of California's 45 seats—60 % of the seats—even though Republican congressional candidates actually received more of the two-party vote than Democratic candidates (49.4% Republican to 48.3% Democratic). These results stand in contrast to this Court's observation in *Reynolds* v. *Sims*:

> Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a State could elect a majority of that State's legislators.

377 U.S. 533, 565 (1964).

V. THE DISTRICT COURT ERRED IN HOLDING THAT ARTICLE I, SECTION 2 OF THE CONSTITUTION IS INAPPLICABLE TO THE PARTISAN GERRYMANDERING OF CONGRESSIONAL DISTRICTS.

A. Article I, Section 2 Has Been Historically Invoked In Both Qualitative and Quantitative Vote Dilution Cases.

In dismissing appellants' second cause of action, the court below erroneously concluded that article I, section 2 of the Constitution may be invoked only if a congressional redistricting plan is challenged on the basis of population disparities between districts. *Badham*, slip op. at 23 (App. A at 21a).

Article I, section 2 applies to both numerical *and* political gerrymanders. Nothing in the language of *Wesberry* v. *Sanders*, 376 U.S. 1 (1964), upon which Judge Poole relies, supports the narrow view that population is the sole diluting factor. In fact, the *Wesberry* Court explicitly outlined examples of how article I had historically been applied to protect the right to vote:

> It is not surprising that our Court has held that this Article gives persons qualified to vote a constitutional right to vote and to have their votes counted. *United States* v. *Mosley*, 238 U.S. 383; *Ex Parte Yarbrough*,

> 110 U.S. 651. Not only can this right to vote not be denied outright, it cannot, consistently with Article I, be destroyed by alteration of ballots, see *United States* v. *Classic*, 313 U.S. 299, or diluted by stuffing of the ballot box, see *United States* v. *Saylor*, 322 U.S. 385.

Wesberry, 376 U.S. at 17.

It follows that "the command of Art. I, Sec. 2, that Representatives be chosen 'by the People of the several States' means that as nearly as is practical one man's vote in a congressional election is to be *worth* as much as another's." *Wesberry*, 376 U.S. at 7-8 (emphasis added). *Wesberry*'s reliance on and analysis of article I, section 2, demonstrates that partisan gerrymandering cannot be used to defeat the constitutional right of each voter to an equal voice in electing representatives to Congress.

Partisan gerrymandering of equipopulous districts is another form of vote dilution cognizable under article I, section 2, which requires that citizens not have their vote "diluted." *Id.* at 17. "One principle was uppermost in the minds of many delegates [to the Constitutional Convention]: that, no matter where he lived, each voter should have a voice equal to that of every other in electing members of Congress." *Id.* at 10.

Moreover, courts have already recognized, or at a minimum implied, that article I, section 2 provides protection against political gerrymandering. *Daggett* v. *Kimmelman*, 580 F. Supp. 1259 (1984), *aff'd sub nom.*, *Karcher* v. *Daggett*, 467 U.S. 1222 (1984), involved the selection of a congressional redistricting plan to replace the plan struck down in *Karcher* v. *Daggett*, 462 U.S. 725 (1983). The three-judge district court in New Jersey evaluated several proposed plans that were almost identical in terms of population deviations and chose the plan that did not involve "an intentional gerrymander in favor of certain Democratic representatives." The opinion in *Daggett* v. *Kimmelman* clearly was grounded in article I, section 2. It was summarily affirmed by this Court. *Karcher* v. *Daggett*, 467 U.S. 1222 (1984).

The mandate of *Wesberry* v. *Sanders* is fair representation, equal voices, and undiluted votes. It applies whether these rights are undermined by population deviations or partisan discrimination. *Wesberry*, 376 U.S. at 17-18.

B. Article I, Section 2 Places Greater Limitations on Congressional Gerrymandering Than Does the Equal Protection Clause on Legislative Gerrymandering.

The district court erroneously concludes that *Mahan* v. *Howell*, 410 U.S. 315, 322 (1973), *Kirkpatrick* v. *Preisler*, 394 U.S. 526, 534 (1969), and *Karcher* v. *Daggett*, 462 U.S. at 734 n.6, make population equality the only consideration in districting challenges under article I, section 2. On the contrary, those cases simply point out the differences in the approach to population variations in congressional and legislative cases. Thus, states attempting to justify population deviations in congressional districting face a far more stringent burden than in legislative districting cases. Judge Poole suggests below that, because "*Kirkpatrick* does little to prevent what is known as gerrymandering," *Karcher* at 734 n.6, *cited in Badham*, slip op. at 24 (App. A at 21a), such claims are not cognizable under article I, section 2. The Supreme Court, however, cannot be said to have resolved issues in *Kirkpatrick* and *Karcher* that were not before it.

The issue is now before this Court. There should be, as in population-based cases, a far more exacting scrutiny of congressional gerrymanders under article I, section 2 than of legislative gerrymanders under the equal protection clause.

VI. THE DISTRICT COURT ERRONEOUSLY IGNORED THE FIRST AMENDMENT PROTECTIONS GUARANTEED TO POLITICAL PARTIES.

A. The First Amendment Protects Political Parties from Egregious Political Gerrymandering.

A.B. 2X clearly penalizes the right of political association. Although the district court agreed that "it is well-settled that the 'First Amendment protects political as-

sociation as well as political expression' *Buckley* v. *Valeo*, 424 U.S. 1, 15(1976)," *Badham*, slip op. at 25 (App. A at 22a), the court dismissed appellants' claim that egregious gerrymandering violates the associational rights of the members of a targeted political party. Contrary to Judge Poole's assertion that appellants "failed to explain *how* A.B. 2X penalizes" the exercise of their First Amendment rights," *Id.* at 25, the complaint below is replete with allegations that Republican voters are denied their full voice in California's congressional electoral system.

Judge Poole erroneously held that merely because Republicans achieve some electoral success, they can claim no infringement of associational rights. *Id.* at 19 (App. A at 17a). When voters are identified on the basis of their party affiliations or consistent preference for candidates of one party and for that reason are relegated to a district designed to eliminate their ability to affect the outcome of an election, their right to freedom of association has been improperly denied and penalized. This Court's first amendment jurisprudence does not require that Republicans be completely barred from voting or running for office in order to state a claim. Rather, when an election statute threatens "to reduce diversity and competition in the marketplace of ideas," that statute must fall. *Anderson* v. *Celebrezze*, 460 U.S. 780 (1983). As this Court noted in *Anderson*, "it is especially difficult for the state to justify a restriction that limits political participation by an identifiable group whose members share a particular viewpoint [or] associational preference . . . ." *Id.* at 793. It is precisely for the purpose of imposing such restrictions and limitations on Republican voters, however, that the gerrymandered districts in A.B. 2X were drawn.

The "First Amendment freedom to gather in association for the purpose of advancing shared beliefs is protected by the Fourteenth Amendment from infringement by any State." *Democratic Party of the United States* v. *Wisconsin ex rel. La Follette*, 450 U.S. 107, 121 (1981) (citations omitted). Just as "[a]ny interference with the freedom of a party is simultaneously an interference with the freedom

of its adherents" *Sweezy* v. *New Hampshire*, 354 U.S. 234, 250 (1957), any interference with the freedom of party adherents on the basis of their party affiliation or electoral tendencies abridges the freedom of the party's right to associate.

Williams v. *Rhodes*, 393 U.S. 23, 32 (1968) held that Ohio's ballot access laws were repugnant to the first amendment because the electoral process gave a decided advantage to some political parties over others. The state laws burdened "two different, although overlapping, kinds of rights—the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively," thereby offending the first amendment by placing unequal burdens on both the right to vote and the right to associate. *Williams*, 393 U.S. at 30.

B. Partisan Gerrymandering Limits Competition And Responsiveness In The Political Process.

Egregious gerrymandering infringes on appellants' first amendment associational rights because its dilutes their impact as voters who share particular views on public policy. It is "a fundamental tenet of American democracy that a representative government be responsive to the changing will of the electorate." Grofman, *Criteria for Districting: A Social Science Perspective*, 33 U.C.L.A. L. Rev. 77, 112 n.63 (1985). Appellants have alleged—and California's election results since 1982 have proved—that California's congressional districts are largely insensitive to electoral changes, because they lock in "a particular partisan imbalance . . . through the use of dispersal and concentration techniques of gerrymandering," *Id. See also* Weinstein, *Partisan Gerrymandering: The Next Hurdle in the Political Thicket*, 1 J.L. & Pol. 357, 373 (1984).

VII. THE DISTRICT COURT ERRONEOUSLY DISMISSED APPELLANTS' CLAIMS UNDER THE GUARANTEE CLAUSE.

Article IV, section 4 of the Constitution provides that the United States shall guarantee to every state in the

union a republican form of government. A.B. 2X violates the guarantee clause by making a truly republican form of government impossible to achieve. As this Court's one-person, one-vote jurisprudence has developed from *Baker* v. *Carr*, 369 U.S. 186 (1962) through *Karcher* v. *Daggett*, 462 U.S. 725 (1983), its emphasis has been on the weight of each individual's vote. Exclusive judicial focus on a districting plan's population equality can aggravate "the threat of pure majoritarian dominance of legislative bodies." Fein, *Constitutional Restraints on Political Gerrymandering: A Partial Corrective of One Person, One Vote*, 7 Commonsense 3, 4 (1987).

Mechanical emphasis on the *quantitative* nature of redistricting has obscured *qualitative* aspects of democratic representation that provide a balance between the simple aggregation of votes to achieve a majority and the development of the many coalitions necessary for effective representation. Communities of interest should continue to be a viable representation basis to be considered along with population equality. "The guarantee clause, along with the provisions and structure of the Constitution and our political history, at least provides some guidance for" the Court in striking this balance. Bork, *Neutral Principles and Some First Amendment Problems*, 47 Indiana L.J. 1, 19 (1971). "The concept of the primary right of the individual in this area provides none." *Id.* Appellants' guarantee clause claim, taken together with their claims under the first and fourteenth amendments, provides a framework for balancing the fundamental rights of the individual voter with the need for vibrant political discourse between political groups.

The district court below dismissed appellants' guarantee clause claim as nonjusticiable under its reading of *Baker* v. *Carr*, 369 U.S. 186 (1962). This Court, however, appears to have qualified the justiciability issue in both *Baker* and *Reynolds* v. *Sims*, 377 U.S. 533 (1964), noting that *Baker* held only that "*some* questions raised under the guarantee clause are nonjusticiable, where 'political' in nature and where there is a clear absence of judicially manageable standards." *Id.* at 582 (emphasis added). The guarantee clause does have continued vitality because manageable

standards." *Id.* at 582 (emphasis added). The guarantee clause does have continued vitality because manageable standards for assessing partisan gerrymanders exist, as this Court recognized in *Bandemer*.

If a state statute made legislative or congressional membership hereditary or granted life tenure to legislators or congressmen, the foundations of republican government would be threatened. Likewise a statute which contains specific language allocating 27 of California's congressional seats to Democrats and 18 to Republicans would violate the right to a republican form of government. Although less dramatic in its language, A.B. 2X results in an equally offensive effect—the entrenchment of a political party in Congress. It was threats such as these that the authors of the Constitution sought to disarm in the adoption of the guarantee clause.

CONCLUSION

This appeal presents a unique opportunity, as well as the compelling necessity, for the Court to provide much needed guidance to courts and legislatures nationwide on the meaning of its *Bandemer* decision. If the district court's ill-conceived interpretation of *Bandemer* is allowed to stand, the paradigmatic egregious gerrymander of the 1980s—California's computer-assisted congressional districting—rather than remaining an invidious exception, will become the model and the rule for redistricting in every jurisdiction in the nation in the 1990s. This Court is faced with clear, stark alternatives in this appeal. Will the voters of America determine the membership of the House of Representatives, as was envisioned by the Framers of our Constitution, or will the membership of Congress be principally dictated by the partisan passions of the individuals who have the power to draw the lines? The Court should note probable jurisdiction and the decision below should be reversed.

Respectfully submitted,

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May 4, 1988

APPENDIX

APPENDIX A

FOR PUBLICATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S., CYNTHIA TROBITZ-THOMAS, WALLY HERGER, LOWELL LANDOWSKI, JACK HITE, MIKE GARZA, DENNIS McQUAID, ROSEMARY THAKAR, STEVE EIGENBERG, DAVID WILLIAMS, MICHAEL LaCRONE, BOB NASH, NORMAN SHUMWAY, CHIP PASHAYAN, DAVID CREVELT, ROBERT LAGOMARSINO, BILL THOMAS, ELTON GALLEGLY, CARLOS MOORHEAD, GEORGE WOOLVERTON, JERRY ZERG, DAVID BAIRD, ROBERT KERNS, ROBERT SCRIBNER, GEORGE ADAMS, CARL JOHNSON, JOHN W. ALMQUIST, JACKSON M. McMURRAY, JOYCE ROBERTSON, DAVID DREIER, CHARLES HOUSE, JERRY LEWIS, BOB HENLEY, AL McCANDLESS, ROBERT DORNAN, WILLIAM DANNEMEYER, BOB BADHAM, BILL LOWERY, DAN LUNGREN, RON PACKARD, BILL MITCHELL, and DUNCAN HUNTER,	) No. C-83-1126-RHS)) Three-Judge Court))) MEMORANDUM) OPINION) AND ORDER)

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Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California,

Defendant,

ASSEMBLY OF THE STATE OF CALIFORNIA; THE MEMBERS OF THE CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION,

Defendants-Intervenors.

Before: POOLE, Circuit Judge; ZIRPOLI and SCHNACKE, District Judges.

POOLE, Circuit Judge, with whom ZIRPOLI, District Judge, concurs:

This case involves a constitutional challenge by plaintiffs, Republican congressional representatives and certain registered Republican voters of California, to Assembly Bill 2X, Chapter 6, 1st Extraordinary Session of the 1983-84 California Legislature ("A.B. 2X"), which effected the redistricting of congressional districts in California following the 1980 Census. Pending before us is the defendants-intervenors' motion to dismiss plaintiffs' third amended complaint[1] for failure to state a claim, pursuant to Fed. R. Civ. P. 12(b)(6). We hold that plaintiffs have not alleged,

[1] At oral argument, we granted plaintiffs' motion to amend their third amended complaint to add additional plaintiffs. The substance of the complaint was not changed, however, and we shall continue to refer to the complaint at issue as plaintiffs' third amended complaint.

and on this record cannot allege, facts sufficient to state a claim under the Supreme Court's holding in *Davis v. Bandemer*, ___U.S. ___, 106 S.Ct. 2797 (1986). Accordingly, the motion to dismiss is granted with prejudice.

BACKGROUND

Under the 1970 Federal Decennial Census, California was entitled to 43 congressional seats in the United States House of Representatives.[2] Following the 1980 Census, California became entitled to 45 representatives. In order to effect the necessary redistricting, the California Legislature passed Assembly Bill 301 ("A.B. 301") in September, 1981. At that time, Democratic majorities controlled both houses of the California Legislature, and voting on A.B. 301 followed party lines. Governor Edmund G. Brown, Jr., a Democrat, signed A.B. 301 into law on September 16, 1981.

The same day, the chairman of the California Republican Party and the Republican National Committee began a petition drive aimed at qualifying a referendum on A.B. 301 for the June 1982 ballot.[3] *See Assembly v. Deukmejian*, 30 Cal.3d 638, 644 (1982), *appeal dismissed and cert. denied, Republican Nat'l Comm. v. Burton*, 456 U.S. 941 (1982). The referendum was successful and resulted in preventing A.B. 301 from taking effect of its own force; nevertheless, the California Supreme Court ordered that the challenged districts be used for the June 1982 and

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[2] The redistricting plan following the 1970 Census was prepared by Special Masters appointed by the California Supreme Court after the Legislature and then-Governor Ronald Reagan failed to reach agreement. See *Legislature v. Reinecke*, 10 Cal.3d 396 (1973). In the November 1980 election, 22 of the 43 seats were won by Democrats; 21 by Republicans.

[3] Under California law, a referendum to approve or reject a statute must be held if a sufficient number of voters sign a petition within 90 days of the statute's enactment. Cal. Const., art. II, §§ 9, 10.

November 1982 elections because they were the only practical alternative. *Assembly v. Deukmejian,* 30 Cal.3d at 678.

In the November 1982 general election for representatives in Congress, 28 Democrats and 17 Republicans were elected under the A.B. 301 districts. In the same election, George Deukmejian, a Republican, was elected to succeed Brown as Governor, defeating Los Angeles Mayor Thomas Bradley, a Democrat. Brown, whose term was due to expire on January 2, 1983, called an extraordinary session of the Legislature, which convened on December 6, 1982. On December 29, A.B. 2X, a previously-passed Board of Equalization reapportionment bill, was withdrawn from Governor Brown's desk and amended to include new congressional districts, allegedly based on the rejected A.B. 301 districts. As amended, A.B. 2X was passed by both houses on a party-line vote. Governor Brown signed A.B. 2X into law shortly before leaving office on January 2, 1983.

PRIOR PROCEEDINGS

On March 4, 1983, plaintiffs filed the original of this action, alleging that A.B. 2X violated several state laws, as well as federal constitutional provisions. Pursuant to 28 U.S.C. § 2284, this three-judge district court was convened to hear the challenge to the constitutionality of the apportionment of the congressional districts at issue.

Perceiving that a resolution favorable to the plaintiffs on any of their state claims might partially or completely avoid the need to address the federal constitutional issues, we ordered abstention so that plaintiffs' state-law claims could be considered by the California courts. *Badham v. March Fong Eu,* 568 F.Supp. 156 (N.D. Cal.), *aff'd sub nom. Badham v. United States Dist. Court,* 721 F.2d 1170 (9th Cir. 1983). After the circuit court decision of affirmance was filed, but before expiration of the time within which to petition for rehearing pursuant to Fed. R. App.

P. 40(a), plaintiffs filed a petition for writ of mandate in the California Supreme Court tendering the state-law issues and asking for a decision within 30 days. That court denied the petition on the grounds that the circuit court opinion had not become final, that plaintiffs' delay had prevented resolution of the factual dispute by the date they claimed to be essential, and that the relief requested was inappropriate. *Badham v. March Fong Eu,* No. S.F. 24638 (Cal. Sup. Ct. Oct. 27, 1983).

On December 12, 1983, plaintiffs requested this court to reassert jurisdiction and to grant leave to file a second amended complaint, purportedly abandoning the state-law claims. The amended complaint was tentatively permitted to be filed, and we scheduled oral argument to determine whether to terminate abstention. After hearing argument and reviewing the parties' submissions, we concluded that the state-law issues were still implicit in the case and that the basis for abstention as previously set forth was still valid, and we again ordered the parties to seek resolution of the issues in state court. *Badham v. March Fong Eu,* No. C-83-1126 (N.D. Cal. June 19, 1984) (Schnacke, District Judge, dissenting), *aff'd mem. sub nom. Badham v. United States Dist. Court,* 749 F.2d 36 (9th Cir. 1984), *cert. denied sub nom. Badham v. Secretary of State,* 470 U.S. 1084 (1985).

In the meantime, following our second order of abstention, the parties had become actively involved in a suit in the Superior Court of California in Los Angeles, which had been filed by the defendants seeking a declaration of the validity of A.B. 2X. As our previous orders had noted, we viewed that pending litigation as a possible, though not exclusive, vehicle for resolving the state claims. Some efforts were made to reach stipulations which might enable those issues to be tried by the state court, but the parties could not reach agreement. After the Supreme Court denied certiorari, the parties again returned to this court and jointly requested that we vacate abstention and allow

them to proceed to trial on plaintiffs' second amended complaint. With some concern about whether the state law issues had really been removed, we agreed to vacate abstention and reassert jurisdiction.

Following argument on defendants' motion to dismiss plaintiffs' second amended complaint, we concluded that our wisest course was to await the final outcome of *Bandemer v. Davis*, 603 F.Supp. 1479 (S.D. Ind. 1984), *rev'd, Davis v. Bandemer*, ___U.S. ___, 106 S.Ct. 2797 (1986), which was then pending before the United States Supreme Court. In *Bandemer*, a three-judge district court had held the redistricting of the Indiana legislative districts to be unconstitutional, on the theory that a partisan political gerrymander violated the Equal Protection Clause of the Fourteenth Amendment. As the plaintiffs' second amended complaint raised issues virtually identical to those before the Supreme Court in *Bandemer*, we ordered all proceedings stayed pending the Supreme Court's decision. *Badham v. March Fong Eu*, No. C-83-1126 (N.D. Cal. Sept. 19, 1985), *aff'd mem. sub nom. Badham v. United States Dist. Court*, 785 F.2d 314 (9th Cir. 1986).

After the Supreme Court rendered its decision in *Davis v. Bandemer*, plaintiffs were granted leave to file a third amended complaint. Defendants again moved to dismiss, and we heard argument on the motion on December 5, 1986.

DISCUSSION

I. FIRST CAUSE OF ACTION

Plaintiffs' major contention is that A.B. 2X is "an intentional, invidious and effective gerrymander" that violates the Equal Protection Clause of the Fourteenth Amendment by diluting the strength of Republican voters in California. Before considering the merits of this claim, however, we must briefly address the defendants' contention that this question is nonjusticiable.

A. Justiciability

In *Davis v. Bandemer*, the Court held that a partisan gerrymandering claim was justiciable under the equal protection clause. 106 S.Ct. at 2803-07. Defendants argue that we should distinguish this case because *Bandemer* involved a challenge to *state* legislative redistricting, whereas this case involves a challenge to *congressional* redistricting.

We find this argument unpersuasive. Defendants' first contention, that Article I, Section 4 of the Constitution[4] represents a "textually demonstrable constitutional commitment of the issue to a coordinate political department," *Baker v. Carr*, 369 U.S. 186, 217 (1962), was rejected by the Supreme Court in *Wesberry v. Sanders*, 376 U.S. 1 (1964):

> [W]e made it clear in *Baker* that nothing in the language of [Article I, Section 4] gives support to a construction that would immunize state congressional apportionment laws which debase a citizen's right to vote from the power of courts to protect the constitutional rights of individuals from legislative destruction . . .

376 U.S. at 6.

Defendants attempt to distinguish *Wesberry* on the ground that *Wesberry* involved a numerical rule of law that could be applied without "expressing a lack of the respect due [a] coordinate branch[ ] of Government." *Baker v. Carr*, 369 U.S. at 217. This argument, however, was rejected in *Bademer:*

> The mere fact, however, that we may not now similarly perceive a likely arithmetic presumption in the

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[4] Article I, Section 4 provides: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

> instant context does not compel a conclusion that the claims presented here are non-justiciable.

106 S.Ct. at 2805.

We find nothing in *Bandemer's* justiciability analysis that turns on the distinction between congressional redistricting and state legislative redistricting. Accordingly, we will address the Omerits of defendants' motion to dismiss.

B. The Threshold Effects Test

In assessing whether plaintiffs have sufficiently alleged an equal protection claim under *Davis v. Bandemer*, we must first grapple with the fact that no single opinion in *Bandemer* commanded the assent of a majority of the court. Of the six justices who believed that partisan gerrymandering claims were justiciable, a plurality of four held that "a threshold showing of discriminatory vote dilution is required for a prima facie case of an equal protection violation." 106 S.Ct. at 2816 (opinion of White, J., joined by Brennan, Marshall and Blackmun, JJ.). Two justices dissented, expressing the view that "a state legislature violates the Equal Protection Clause by adopting a redistricting plan designed solely to preserve the power of the dominant political party." *Id.* at 2825 (opinion of Powell, J., joined by Stevens, J.). Three justices concurred in the result on the ground that partisan gerrymandering claims were simply non-justiciable. *Id.* at 2816-17 (opinion of O'Connor, J., joined by Burger and Rehnquist, JJ.).

Despite this tripartite division of views, it is clear that we must apply the "threshold" test advocated by the plurality. In *Marks v. United States*, 430 U.S. 188 (1977), the Court was faced with determining the effect of a prior case, *Memoirs v. Massachusetts*, 383 U.S. 413 (1966), in which three separate opinions supported the judgment. The Court said:

> When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent

> of five Justices, "the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds. . . ." *Gregg v. Georgia*, 428 U.S. 153, 169 n.15 (1976) (opinion of Stewart, Powell and Stevens, JJ.).

Marks, 430 U.S. at 193. Thus, by analogy, we may treat the plurality's analysis in *Bandemer* as "constitut[ing] the holding of the Court and provid[ing] the governing standards," to be applied to this case. *Marks, supra* at 194.

The plurality in *Bandemer* began by setting forth the elements of the claim: "in order to succeed . . . plaintiffs were required to prove both intentional discrimination against an identifiable political group and an actual discriminatory effect on that group." 106 S.Ct. at 2808. Although the dissenters agreed with this initial statement, *see id.* at 2825 (opinion of Powell, J.), the plurality disagreed with the dissenters' position that "disproportionate elections results alone are a sufficient effect to support a finding of a constitutional violation." *Id.* at 2815. Rather, the plurality found it "appropriate to require allegations and proof that the challenged legislative plan has had or will have effects that are sufficiently serious to require intervention by the federal courts in state reapportionment decisions." *Id.* at 2811. The rationale for this requirement

> rest[s] on a conviction that the mere fact that a particular apportionment scheme makes it more difficult for a particular group in a particular district to elect the representatives of its choice does not render that scheme constitutionally infirm. This conviction, in turn, stems from a perception that the power to influence the political process is not limited to winning elections. An individual or a group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that can-

> didate as other voters in the district. We cannot presume in such a situation, without actual proof to the contrary, that the candidate elected will entirely ignore the interests of those voters. This is true even in a safe district where the losing group loses election after election. Thus, a group's electoral power is not unconstitutionally diminished by the simple fact of an apportionment scheme that makes winning elections more difficult, and a failure of proportional representation alone does not constitute impermissible discrimination under the equal protection clause.

Id. at 2810. Based on this rationale, the plurality concluded that the effects threshold required a more broad-based inquiry than present or projected election results under the challenged districts. Specifically:

> [U]nconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or group of voters' influence *on the political process as a whole.*

Id. (emphasis added).

Relying on previous successful challenges in racial gerrymandering cases, the plurality elaborated on the nature of the "threshold showing" that was required:

> In the individual multi-member district cases, we have found equal protection violations only where a history of disproportionate results appeared in conjunction with strong indicia of lack of political power and the denial of fair representation. See *supra,* at 2809. In those cases, the racial minorities asserting the successful equal protection claims had essentially been *shut out of the political process.* In the statewide political gerrymandering context, these prior cases lead to the analogous conclusion that equal protection violations may be found only where a history (actual or projected) of disproportionate results appears in con-

> junction with similar indicia. The mere lack of control of the General Assembly after a single election does not rise to the requisite level.

Id. at 2814 (emphasis added).

With these standards in mind, we now examine the specific allegations of the complaint to see if a sufficient "threshold effect" has been alleged.

C. Sufficiency of the Complaint

As an initial matter, it is clear that the complaint sufficiently alleges a discriminatory intent. Indeed, the complaint is replete with specific allegations tending to show a discriminatory intent, such as the pleaders' allegations of the "uncouth, irregular and bizarre configurations" of the districts and of the eleventh-hour legislative maneuvering to get the bill approved before a Democratic governor left office. The *Bandemer* plurality noted that "[a]s long as redistricting is done by a legislature, it should not be very difficult to prove that the likely political consequences of the reapportionment were intended." 106 S.Ct. at 2809. Thus, as in *Bandemer,* we will focus our attention on the sufficiency of the "effects" alleged by the plaintiffs.

The first "effects" inquiry concerns the "history (actual or projected) of disproportionate [election] results." *Id.* at 2814. Here, the allegations of the complaint are numerous. We are told that A.B. 2X "operates to minimize or cancel out [plaintiffs'] votes and voting strength," and that "[p]laintiffs' votes are persistently degraded and diluted both in individual districts . . . and on a statewide basis." More specifically, plaintiffs allege that A.B. 2X "locks in grossly disproportionate election results" throughout the decade by "allocat[ing] a substantial and permanent majority of seats to Democratic party candidates in percentages far superior to the statewide voting strength of Democratic voters."

In the 1984 election, Republicans received 50.1% of the vote statewide, but received only 40% of the congressional seats (18 of 45). This disparity narrowed somewhat in 1986, when Republicans received 46.9% of the vote and retained the same 18 seats. Plaintiffs have alleged that these results are the direct consequence of A.B. 2X and that they are a reliable prediction of future elections.

The parties disagree over whether these allegations are sufficient to satisfy the first prong of *Bandemer*'s "effects" test. Plaintiffs contend that the only deficiency in *Bandemer* was that the plaintiffs there relied solely on the results of a single election, whereas plaintiffs here have alleged that "the 1981 reapportionment would consign the [Republicans] to a minority status throughout the 1980's." *Id.* at 2812. Defendants argue that plaintiffs must show much more serious deficiencies, such as those shown in the racial gerrymandering cases, and in addition must show that "the [Republicans] would have no hope of doing any better in the reapportionment that would occur after the 1990 census." *Id.*

We need not resolve this dispute, however, because in any case it is clear that plaintiffs cannot satisfy the second prong of the "effects" test. In order to satisfy the second prong, plaintiffs must show "strong indicia of lack of political power and the denial of fair representation." 106 S.Ct. at 2814. The *Bandemer* plurality specifically based this requirement on its prior "cases relating to challenges by racial groups to individual multi-member districts," *id.* at 2810 n.13, and noted that "[i]n those case, the racial minorities . . . had essentially been shut out of the political process." *Id.* at 2814.

It is on this second prong of the "effects" threshold that plaintiffs' complaint falters. Specifically, there are no factual allegations regarding California Republicans' role in "the political process as a whole." *Id.* at 2810. There are no allegations that California Republicans have been

"shut out" of the political process, nor are there allegations that anyone has ever interfered with Republican registration, organizing, voting, fund-raising, or campaigning. Republicans remain free to speak out on issues of public concern; plaintiffs do not allege that there are, or have ever been, any impediments to their full participation in the "uninhibited, robust, and wide-open" public debate on which our political system relies. *New York Times Co. v. Sullivan,* 376 U.S. 254, 270 (1964).

Particularly conspicuous by its absence is any allegation that plaintiffs' interests are being "entirely ignore[d]" by their congressional representatives. *Bandemer,* 106 S.Ct. at 2810. Instead, plaintiffs claim that Democratic incumbents will be re-elected "without need to attend to the views of fragmented and submerged Republican minorities in their districts." Such an allegation is insufficient under *Bandemer;* the plurality in that case specifically cautioned that such a presumption of disregard would not be countenanced without proof, even in so-called "safe" districts. *Id.* at 2810. Nowhere do plaintiffs suggest that they can prove disregard by any means other than by inference from the election results, a method which *Bandemer* removes from our purview.

A further example of how the complaint fails to measure up is contained in the following passage:

> A.B. 2X locks in grossly disproportionate election results and has other invidious effects including, without limitations, the destruction of Republican incumbencies, the wasting of Republican votes, the minimization of Republican voters' opportunity to elect congressmen of their choice, the systematic elimination of political competition, discrimination based on political association and other effects as detailed below.

Complaint at 13. Obviously, plaintiffs have attempted to couch this allegation in terms of *Bandemer*'s two prongs.

However, all of the alleged "other invidious effects" are merely different ways of repeating central allegation that A.B. 2X causes disproportionate election results. The language "discrimination based on political association" *might* be considered to allege an effect of the kind needed, but this single statement is conclusory and it is not supported by any other inference-generating facts alleged in the complaint.

The only other "effect" alleged that is different from a mere claim of disproportionate election results is the allegation that the "bizarre and irregular" shapes of the districts cause voter confusion and apathy and make it difficult for congressmen to communicate with their constituents. However, this allegation is not limited to Republican voters or congressmen; it applies equally to all voters and congressmen affected by the plan. Nothing in the complaint suggests that somehow Republican voters are differentially affected by the alleged apathy. In addition, this argument was raised by the plaintiffs in *Bandemer*, *see* 106 S.Ct. at 2833 (dissenting opinion), but the plurality did not even consider it worthy of comment.

Plaintiffs protest that the only factual deficiency in *Bandemer* was that the plaintiffs there relied *only* on the results of a single election, and the district court specifically refused to find that that election was a reliable prediction of future elections. *See Bandemer* at 2812. Plaintiffs maintain that it is sufficient to show that they cannot achieve proportionate representation throughout the 1980's. While it is possible that plaintiffs have cured the *Bandemer* plaintiffs' deficiency in this one regard, we disagree with their argument that that was the only deficiency apparent in the case. The plurality opinion specifically required "a history (actual or projected) of disproportionate results . . . *in conjunction with* [other] indicia." *Id.* at 2814 (emphasis added). We cannot accept plaintiffs' invitation to ignore the second prong of the "threshold effects" test. Accordingly, plaintiffs first cause of action must be dismissed.

D. Leave to Amend

Before moving on to consider plaintiffs' other constitutional claims, we next consider whether plaintiffs should be granted another opportunity to amend their complaint. For the following reasons, we believe such an opportunity would be unavailing.

Our major reason for refusing another amendment is that the history of this litigation indicates, both implicitly and explicitly, that the Republicans have taken their best shot. Plaintiffs second amended complaint was based on the district court opinion which the Supreme Court reversed in *Bandemer*. After that reversal, we gave plaintiffs an opportunity to amend their complaint to attempt to state a claim in light of *Bandemer*. Plaintiffs had the *Bandemer* opinion to work with, and they have acknowledged in their moving papers that *Bandemer* requires something more than disproportionate election results (although they dispute the extent of this requirement), yet their third amended complaint is notably devoid of material allegations on this score. Although the complaint uses language similar to that used in *Bandemer*, such as "other invidious effects" and "[a lack of] fair and effective representation," this conclusory language cannot disguise the fact that the only factual basis underlying these claimed effects is plaintiffs' assertion of disproportionate underrepresentation. It is all too easy to infer from this studious avoidance of *any* material allegations of non-election based "effects" that plaintiffs realize that no such effects exist.

We do not have to rely solely on inference, however, because we repeatedly invited plaintiffs at oral argument to advise whether they were aware of any additional facts which would strengthen their complaint, and plaintiffs repeatedly declined our invitation to call such facts to the attention of the court. This colloquy, which is set forth in

the margin,[5] amply demonstrates plaintiffs' acknowledgement of their inability to come forward in good faith with any additional allegations supportable by evidence in court. For this reason, we conclude that further opportunity to amend would be unavailing.

We believe that plaintiffs' litigation posture is itself sufficient reason to dispense with further attempts at amend-

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[5] The Court: "Do you believe that you have now, in your first claim, you have set forth the necessary showing for a claim of equal protection violation as the Court has said in *Bandemer?* Are you prepared to rest on that?

Mr. Parrinello [Counsel for Plaintiffs]: We believe that we have your honor. But out of an abundance of caution, if the court feels that there are other things that could be alleged that would be helpful to the court, . . . I would request the opportunity to understand what those facts were that the court felt were important, and —

The Court: I don't think we have any concern one way or the other. It's your complaint that you have got to defend.

* * *

Mr. Parrinello: We believe the complaint states a claim under *Bandemer v. Davis.*

The Court: You are prepared to stand on it?

Mr. Parrinello: We are prepared to stand on it.

The Court: There is nothing else of great significance at this time that you believe would make any difference, add to it in substantial particulars which you think we ought to have before us before we rule?

Mr. Parrinello: May I have a minute to discuss that with my counsel?

* * *

[Counsel was given an opportunity to confer while defendants made their reply argument.]

The Court: Do you think you can improve the complaint in any way?

Mr. Parrinello: Your honor, we'll stand on the complaint as alleged."

Reporter's Transcript of Proceedings, December 5, 1986, at 59-60 and 67.

ment. However, we also may take judicial notice of other facts which demonstrate that California Republicans are far from being effectively "shut out" of the political process. Instead, California Republicans represent so potent a political force that it is unnecessary for the judiciary to intervene, as we would be constrained to do to protect the trampled rights of a disadvantaged political or racial minority.

Chief among our observations is our undisputed knowledge that California Republicans still hold 40% of the congressional seats, a sizeable bloc that is far more than mere token representation. It simply would be ludicrous for plaintiffs to allege that their interests are being "entirely ignore[d]" in Congress when they have such a large contingent of representatives who share those interests. We also note that California has a Republican governor, and one of its two senators is a Republican. Given also that a recent former Republican governor of California has for seven years been President of the United States, we see the fulcrum of political power to be such as to belie any attempt of plaintiffs to claim that they are bereft of the ability to exercise potent power in "the political process as a whole" because of the paralysis of an unfair gerrymander.

An additional fact further strikes us as extremely indicative of the political power of Republicans in California: plaintiffs admit that the Republicans were able to overturn the original redistricting bill, A.B. 301, through resort to California's referendum process. This display of California Republicans' political might demonstrates their ability to protect themselves from political subjugation. Plaintiffs complain that their effort was undone by the passage of A.B. 2X, but they cannot satisfactorily explain why there was not available a return to the same populace which had so recently supported them in their struggle for fair representation. We do not suggest that plaintiffs were subject to any kind of "exhaustion" requirement, but we note

that a resource which the pleadings show they indulged in at the outset has inexplicably not been accounted for. We do not require plaintiffs to resort to the state referendum procedure; we are merely cognizant that the third amended complaint is mute as to why it was not an available tool open to them while simultaneously pursuing their state and federal legal remedies. A petition signed by more than 5% of the voters would have prevented A.B. 2X from taking effect until after a referendum took place. A successful referendum vote would have killed the gerrymander, because a Republican governor had taken office. In a practical and realistic sense, we cannot ignore this very real example of the California Republicans' political power simply because they have not elected to exercise it when a similar situation arose again.[6]

A quick comparison with the facts of the racial gerrymandering cases on which *Bandemer* was based demonstrates the distance of the Republicans from alleging a claim. For example, in *Rogers v. Lodge,* 458 U.S. 613 (1982), Blacks constituted 38% of the voters in Burke County Georgia, but had never won a single seat. In *Mobile v. Bolden,* 446 U.S. 55 (1980), Blacks constituted "about one-third of the electorate" but had never won a single seat. In cases under the Voting Rights Act, the Court has emphasized that "minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate

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[6] Plaintiffs complain that we are using judicial notice of facts to determine the ultimate issue, i.e., whether Republicans' political power has been unfairly diluted by A.B. 2X. They argue that such a determination is improper on a motion to dismiss. We note initially that when matters outside the pleadings are presented on a motion to dismiss, we may treat the motion as one for summary judgment under Rule 56. Fed. R. Civ. Pro. 12(b)(6). However, we do not view our uncontested judicial observations as a formal ruling under either Rule; we merely take notice of these facts as additional support for our ruling that plaintiffs need not be given any additional opportunity to amend.

effectively in the political process." *Thornburg v. Gingles*, ___U.S. ___, ___, 106 S.Ct. 2752, 2764 (1986). Republicans in California cannot claim to have been treated as political pariahs; they have been a formidable, and sometimes dominant, force. On this point, we agree with the defendants that "even the bounds of normal political exaggeration are exceeded when the Republicans of California attempt to suggest that their political role can even be spoken of in the same breath as that of the Blacks of Burke County, Georgia and Mobile, Alabama." Democratic Congressional Delegation's Memorandum in Support of Motion to Dismiss, at 26.

We are convinced that there is no credible way in which plaintiffs could amend their complaint to state a claim under *Davis v. Bandemer*, nor have they formally sought to do so. Therefore, plaintiffs' first cause of action is dismissed with prejudice.

II. SECOND CAUSE OF ACTION

Plaintiffs' second contention is that A.B. 2X violates Article I, Section 2 of the Constitution, which provides:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . .

Article I, Section 2 must be read in conjunction with Section 2 of the Fourteenth Amendment, which provides:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State. . .

As interpreted by the Supreme Court, Article I, Section 2 prevents a State from creating congressional districts of unequal population. "The history of the Constitution, particularly that part relating to the adoption of Art. I, § 2, reveals that those who framed the Constitution meant that,

no matter what the mechanics of an election, whether statewide or by districts, it was population which was to the basis of the House of Representatives." *Wesberry v. Sanders*, 376 U.S. 1, 9 (1964). Accordingly, the Court has invalidated redistricting plans containing even minor population variances that were "not the result of a good-faith effort to achieve population equality." *Karcher v. Daggett*, 462 U.S. 725, 727 (1983). In all of these cases, the Court has emphasized that "equal representation for equal numbers of people [is] the fundamental goal for the House of Representatives." *Wesberry*, 376 U.S. at 18; *see also Karcher*, 462 U.S. at 730; *Kirkpatrick v. Preisler*, 394 U.S. 526, 530 (1969).

Plaintiffs concede that A.B. 2X does not violate the equal population rule.[7] Thus, if Article I, Section 2 requires nothing more, then the motion to dismiss must be granted.

Plaintiffs' argument that Article I, Section 2 does require more is based on the statement from *Wesberry* that "the command of Art. I, § 2 . . . means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." 376 U.S. at 7-8. Seizing on the concept of "worth," plaintiffs argue that Republican votes in California are "worth" less than Democratic votes because A.B. 2X places Democratic majorities in a disproportionately large number of districts.

Plaintiffs' argument reads too much into *Wesberry*. The Supreme Court itself has recognized, albeit in dicta, that "population alone has been the sole criteria of constitutionality in congressional redistricting under Art. I, § 2 . . ." *Mahan v. Howell*, 410 U.S. 315, 322 (1973). The cases decided under Article I, Section 2, from *Wesberry* to the

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[7] As originally enacted, A.B. 2X did contain population variances which exceeded permissible limits, but Secretary of State Eu remedied that defect by making 21 administrative corrections to the plan. Plaintiffs have foregone their claim that these corrections were implemented in violation of State law.

present, fully support such a conclusion. Indeed, the Court has even indicated a willingness to accept a certain amount of political maneuvering so long as the core constitutional concern—population equality—was protected:

> [The] argument that deviations from numerical equality are justified in order to inhibit legislators from engaging in partisan gerrymandering is no more than a variant of the argument, already rejected, that considerations of practical politics can justify population disparities.

Kirkpatrick, 394 U.S. at 534. This reasoning is inconsistent with the notion that partisan gerrymandering is itself an Article I, Section 2 violation.

Our reading of *Kirkpatrick* is confirmed by *Karcher*, in which the court stated:

> *Kirkpatrick* does little to prevent what is known as gerrymandering. *Kirkpatrick's* object, achieving population equality, is far less ambitious than what would be required to address gerrymandering on a constitutional level.

462 U.S. at 734 n.6 (citations omitted).[8]

Thus, the Court has made it clear that Article I, Section 2 only proscribes districts of unequal population. Claims

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[8] Plaintiffs also rely on *Daggett v. Kimmelman*, 580 F. Supp. 1259 (D.N.J.), *aff'd mem.*, 467 U.S. 1222 (1984), where the three-judge district court, in choosing a redistricting plan to replace the one struck down in *Karcher v. Daggett*, specifically declined to pick a plan which embodied "an intentional gerrymander in favor of certain Democratic Representatives." 580 F. Supp. at 1262. However, *Daggett* only involved the *remedial* stage of the litigation, *after* a violation of Article I, Section 2, had been found. The Court specifically stated: "[w]e need not consider how [the proposed plan] would have fared had it been validly enacted by the State of New Jersey." *Id.* Thus, *Daggett* cannot be read as holding that a partisan gerrymander, without more, violates Article I, Section 2.

regarding the political makeup of those districts must be judged by the more rigorous standards of the Fourteenth Amendment, as outlined in *Davis v. Bandemer*. Accordingly, plaintiffs second cause of action must be dismissed.

III. THIRD CAUSE OF ACTION

Plaintiffs' next contention is that A.B. 2X violates the First Amendment by "penalizing Republican voters solely because of their party affiliations, political beliefs and associations and by chilling public debate on issues of public importance."

It is well-settled that the "First Amendment protects political association as well as political expression." *Buckley v. Valeo*, 424 U.S. 1, 15 (1976). However, plaintiffs have failed to explain *how* A.B. 2X penalizes the exercise of their First Amendment rights. Plaintiffs assert that A.B. 2X "negat[es] the effect of plaintiffs' votes and the votes of members of their party," but this claim ignores the fact that Republican votes were sufficiently effective to elect 18 Representatives.

Plaintiffs argue that this case is similar to the ballot-access cases, such as *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Williams v. Rhodes*, 393 U.S. 23 (1968), in which the Court struck down restrictive election rules which effectively excluded independent and third-party candidates from the ballot. Those cases are inapposite to the instant situation. Plaintiffs here are not prevented from fielding candidates or from voting for the candidate of their choice. The First Amendment guarantees the right to participate in the political process; it does not guarantee political success.

Plaintiffs maintain that *Williams* protects the "right of qualified voters, regardless of political persuasion, to cast their votes *effectively*," 393 U.S. at 30 (emphasis added), and that their votes are rendered ineffective in those districts where there is a Democratic majority. We reject this

contention. As the Court stated in *Bandemer:* "[a]n individual or a group of individuals who votes for a losing candidate is usually deemed to be adequately represented by the winning candidate and to have as much opportunity to influence that candidate as other voters in the district. . . . This is true even in safe districts where the losing group loses election after election." 106 S.Ct. at 2810.[9] Although plaintiffs have generally alleged that Democratic incumbents "need [not] attend to the views of fragmented and submerged Republican minorities in their districts," they pointedly do not allege that Democratic representatives have in fact "entirely ignore[d]" the interests of those voters. *Id.*

Finally, the argument that A.B. 2X "chills" meaningful debate on political issues is wholly without merit. The concept of a "chilling effect" is associated with the doctrine of overbreadth, and describes the situation where persons whose expression is protected are deterred from exercising their rights by the existence of an overly broad statute regulating speech. *See, e.g., New York v. Ferber,* 458 U.S. 747, 768, 772 & n.27 (1982). While plaintiffs may be discouraged by their lack of electoral success, they cannot claim that A.B. 2X regulates their speech or subjects them to any criminal or civil penalties for engaging in protected expression.

Plaintiffs have failed to allege a violation of their First Amendment rights. Accordingly, plaintiffs third cause of action must be dismissed.

IV. FOURTH CAUSE OF ACTION

Plaintiffs' final contention is that A.B. 2X violates Article IV, Section 4 of the Constitution, which provides that

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[9] Although *Bandemer* involved an equal protection challenge, the observation is equally applicable to a First Amendment claim. The Court in *Williams* noted the overlapping nature of the right to association and the right to vote. 393 U.S. at 30.

"[t]he United States shall guarantee to every State in this Union a Republican Form of Government . . ."

This contention is easily dismissed on the authority of *Baker v. Carr*, 369 U.S. 186, 223-24 (1962), and the cases cited therein. In *Baker*, the Court noted that it "has consistently held that a challenge to state action based on the Guaranty Clause presents no justiciable question." *Id.* at 224. With respect to the reapportionment challenge before it, the Court specifically stated that "any reliance on [the Guaranty] clause would be futile." *Id.* at 227. This result is not altered by *Bandemer*'s holding that an equal protection challenge to a partisan gerrymander is justiciable; *Baker* specifically distinguished the equal protection claim before the Court from the non-justiciable claims based on the Guaranty Clause.

Accordingly, plaintiffs fourth cause of action must be dismissed as presenting a non-justiciable question.

CONCLUSION

The tortured history of this litigation is one of repeated attempts by the plaintiffs to frame a complaint which could withstand both a motion for abstention and a motion to dismiss. These repeated attempts have come to naught and have demonstrated that plaintiffs are unable to state a federal constitutional claim.

IT IS THEREFORE ORDERED that defendants' motion to dismiss plaintiffs' third amended complaint is GRANTED with prejudice.

Dated: April 19, 1988

C.F.P.
Cecil F. Poole
United States Circuit Judge

BADHAM v. EU, No. C 83 1126 RHS

Zirpoli, District Judge, concurring:

I must accept the Supreme Court's ruling "that political gerrymandering cases may properly be justiciable under the Equal Protection Clause." *Davis v. Bandemer,* ___U.S. ___, 106 S.Ct. 2797 (1986). Nevertheless, the factors that motivated gerrymandering in the present case are no more reprehensible than those found in *Bandemer,*[1] and do not constitute a threshold showing of discriminatory vote dilution required for a prima facie case of equal protection violation.

ALFONSO J. ZIRPOLI
ALFONSO J. ZIRPOLI
United States District Judge

[1] "Mr. Sussman: What were the political factors?

"Mr. Dailey: We wanted to save as many incumbent Republicans as possible." *Bandemer,* 106 S.Ct. at 2802, n.5.

Badham v. Eu, No. C-83-1126-RHS

Schnacke, District Judge, dissenting:

I must respectfully dissent. A statement of my reasons will be filed in due course.

ROBERT H. SCHNACKE
ROBERT H. SCHNACKE
United States District Judge

Counsel

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John K. Van De Kamp, Attorney General, and Robert E. Murphy, Deputy Attorney General, San Francisco, California, for Defendant Secretary March Fong Eu.

Joseph Remcho, Kathleen J. Purcell, and Charles C. Marson, Remcho, Johansen & Purcell, San Francisco, California, for Defendant-Intervenor Assembly of the State of California.

Richard H. Borow, Jonathan H. Steinberg, and Bruce A. Wessel, Irell & Manella, Los Angeles, California, for Defendants-Intervenors Members of the California Democratic Congressional Delegation.

APPENDIX B

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S.,	Case No. C-83-1126RHS THREE JUDGE COURT NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES
Plaintiffs and Appellants,	
vs.	
MARCH FONG EU, Secretary of State of the State of California,	

Defendant and Appellee,)
)
ASSEMBLY OF THE STATE OF)
CALIFORNIA, THE CALIFORNIA)
DEMOCRATIC CONGRESSIONAL)
DELEGATION,)
)
Intervenors and Appellees.)
)
)

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

NOTICE IS HEREBY GIVEN that plaintiffs hereby appeal to the Supreme Court of the United States from the final judgment of the three-judge district court entered on April 21, 1988, dismissing with prejudice the Third Amended Complaint in this action.

This appeal is taken pursuant to section 1253 of Title 28 of the United States Code.

Date: April 28, 1988

NIELSEN, MERKSAMER,
HODGSON, PARRINELLO & MUELLER
By: /s/ JAMES R. PARRINELLO
JAMES R. PARRINELLO
Attorneys for Plaintiffs and Appellants

APPENDIX C

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FILED
October 1, 1986

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S.,	) No. C-83-1126RHS)) THREE-JUDGE) COURT))THIRD AMENDED) COMPLAINT
Plaintiffs,	)
vs.	)
MARCH FONG EU, Secretary of State of the State of California,	)
Defendant,	)

ASSEMBLY OF THE STATE OF CALIFORNIA, THE CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION,

Intervenors.

Plaintiffs allege as follows:

FIRST CAUSE OF ACTION

(Fourteenth Amendment)

1. Plaintiff Robert E. Badham is the Congressman for the 40th Congressional District and a registered Republican voter. Plaintiff Robert Naylor is a registered Republican voter and a resident of the 12th Congressional District. Plaintiff Eric Seastrand is a registered Republican voter and a resident of the 16th Congressional District. Plaintiff Aldo Silvestri is a registered Republican voter and a resident of the 12th Congressional District. Plaintiff Michael W. Cobb is a registered Republican voter and a resident of the 12th Congressional District. Plaintiff Frank O. Verlot is a registered Republican voter and a resident of the 12th Congressional District. Plaintiff Donna S. Richardson is a registered Republican voter and a resident of the 11th Congressional District. Plaintiff Peter Schrager is a registered Republican voter and a resident of the 11th Congressional District. Plaintiff Jane Baker is a registered Republican voter and a resident of the 11th Congressional District. Plaintiff Charles A. Meyer is a registered Republican voter and a resident of the 15th Congressional District. Plaintiff Kirk Lindsey is a registered Republican voter and a resident of the 15th Congressional District. Plaintiff Donald Driscoll is a registered Republican voter and a resident of the 16th Congressional District. Plaintiff Roger T. Erickson, D.D.S. is a registered Republican voter and a resident of the 16th Congressional District. Each plaintiff as a registered Republican is affiliated with the State Republican Party and associates with others similarly situated across the state to advance and advocate commonly held policies and beliefs by, among other things, supporting and voting to elect Republican candidates for congressional office and thereby to transform mutually held beliefs into public policies. Each plaintiff predictably votes for Republican candidates for public office.

2. In California, there are identifiable groups of voters whose voting behavior is constant and can be ascertained from past elections and predicted in future elections. Republican voting strength can be so ascertained and predicted. The core of Republican voting strength is registered Republicans to which are added other voters who predictably and do in fact vote for Republican candidates. The geographical distribution in California of this group of Republican voters is sufficiently ascertainable that it could have been and in fact was taken into account in drawing the congressional district boundaries contained in Assembly Bill 2X, California's current redistricting statute; the same is true of Democratic voting strength.

3. Plaintiffs are members of an identifiable, quantifiable and politically salient group of voters whose voting behavior can be ascertained and predicted. Plaintiffs are Republican voters who in fact vote for Republican candidates and will predictably do so in the future. Plaintiffs, both individually and as members of the larger statewide group of Republican voters, have suffered harm and irreparable damage because Assembly Bill 2X operates to minimize or cancel out their votes and voting strength. Plaintiffs' votes are persistently degraded and diluted both in individual districts across the state and on a statewide basis. Republican voters including plaintiffs do not have the same opportunity to elect candidates of their choice to the United States House of Representatives as do Democrats; in fact their opportunity to do so is decidedly diminished by A.B. 2X which was designed for that purpose.

4. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §§ 1343 (3) and (4), and Plaintiffs have a right to bring this suit pursuant to 42 U.S.C. §§ 1983 and 1988. Plaintiffs also seek declaratory relief pursuant to the provisions of 28 U.S.C. §§ 2201 and 2202.

5. At Plaintiffs' request, a three-judge Court was convened to hear and determine this action pursuant to the

provisions of 28 U.S.C. § 2284(a). Convocation of a three-judge District Court was required because this action challenges the constitutionality of the redistricting of congressional districts in the State of California, as embodied in Assembly Bill 2X, Chapter 6, 1st Extraordinary Session of the 1983-4 California Legislature (hereinafter "A.B. 2X") as implemented by state election officials.

6. Pursuant to 28 U.S.C. § 2284(b)(2), notice of this action has been given to the Governor and the Attorney General of the State of California by sending each via certified mail a copy of the original Complaint.

7. Defendant MARCH FONG EU is Secretary of State of the State of California, which is a statewide elective office held by defendant Eu, a Democrat, since 1974. In her capacity as Secretary of State, defendant Eu is Chief Election Officer of the state, pursuant to California Elections Code section 12172.5. Defendant Eu is sued in her representative capacity only. This action will have statewide application.

8. This case arises under Section I of the Fourteenth Amendment of the Constitution of the United States which provides in pertinent part:

> No State shall make or enforce any law which will abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

9. Pursuant to the 1980 Federal Decennial Census, the population of the State of California is 23,667,902 persons, entitling the State to 45 representatives to the United States House of Representative. Under the 1970 census, California had been entitled to 43 congressional seats. The re-

districting plan for those 43 seats had been prepared by Special Masters appointed by the California Supreme Court in 1973 after the Legislature and Governor failed to reach agreement. *Legislature v. Reinecke*, 10 Cal.3d 396 (1973). The Special Masters first adopted detailed objective criteria for redistricting and then drew district lines according to those criteria (hereafter the "Special Masters' Plan") The Special Masters' districts were logical, compact and reflective of communities of interest. By 1980, Republicans held 21 of the 43 seats. In September of 1981, in accordance with the results of the 1980 census, Assembly Bill 301 ("A.B. 301" hereinafter) was enacted into law as the redistricting statute for California's Congressional districts for the 1980s. At the time both houses of the California Legislature were controlled by Democratic Party majorities; A.B. 301 was passed by party-line votes of 44 to 29 in the Assembly and 21 to 15 in the Senate. Democratic Governor Brown signed A.B. 301 into law immediately after its passage.

10. The process by which A.B. 301 was passed was aberrant and highly irregular. It was not similar at all to the regular legislative process by which important and complex laws are normally enacted in California. In the enactment of A.B. 301, Republican members of the Legislature were totally excluded from the secretive, substantive work of designing the congressional district boundaries enacted by the Democratic majority; the districts delineated in the bill were primarily the work of Democratic members of the Congressional Delegation; no hearing on the proposed district boundaries was held in any committee in either house of the Legislature, despite the fact that the joint rules of the State Senate and Assembly called for such hearings by the Assembly and Senate Elections and Reapportionment Committees. The only public hearing, such as it was, on the proposed district boundaries was one, six member conference committee hearing at which a single set of very rough district boundary maps

was reluctantly unveiled; this entire "public hearing process" took about an hour and concluded with the perfunctory adoption of a conference report recommending the proposed boundaries on a 4-2 party-line vote, Democratic members in the majority.

11. Shortly after its passage, Californians who opposed A.B. 301 circulated referendum petitions and obtained more than 800,000 signatures of California voters, thereby placing a referendum election on A.B. 301 on the June 1982 statewide ballot. At the June election A.B. 301 was overwhelmingly rejected by more than 60% of the popular vote in a heated and expensive election battle. Nevertheless, the November, 1982 congressional elections took place in the rejected A.B. 301 districts pursuant to a prior order of the California Supreme Court in *Assembly v. Deukmejian*, 30 Cal.3d 638 (1982). The use of the rejected A.B. 301 districts resulted in the election in November, 1982 of 28 Democrats and only 17 Republicans, to the House of Representatives; this was a drastic departure from the virtual parity in seats won in 1980 by candidates of the two major parties, where Democrats won 22 seats and Republicans won 21 seats.

12. The rejection of A.B. 301 in the June, 1982 referendum election meant that a new congressional redistricting statute had to be enacted for the 1984 elections and the rest of the decade. The California Legislature paid virtually no attention to the task of drawing new congressional districts until the November, 1982 general election votes were tabulated; the results established that a Republican, George Deukmejian, had won an upset victory and would be the next Governor, and that Democratic Governor Brown would hold office only until January 2, 1983. Democratic interest in passing a new Congressional redistricting statute heightened considerably, even though the next congressional primary election was 19 months away. Then-Governor Brown immediately called the first extraordinary session of the 1983-84 California Legislature,

which convened on December 6, 1982. The agenda for the extraordinary session was set by Governor Brown's call and included redistricting. On December 6, the date the extraordinary session convened, a proposed congressional redistricting bill, Assembly Bill 5X, was introduced by Democrat Assemblyman Richard Alatorre in skeletal form ("A.B. 5X" hereinafter). A.B. 5X was only a "vehicle" bill; no description of the proposed districts was placed in the bill until late in the day of December 27 when it was amended on the Assembly floor to describe the proposed congressional districts but only with long listings of census tracts. Prior to this amendment, no Republican member of the Legislature was informed of the proposed district boundaries or had any substantive involvement with the drafting process. The amended bill passed the Assembly on December 28, 1982, on a party-line vote of 41 to 29, with the Democratic members of the Assembly in the majority.

13. A.B. 5X was not passed by the State Senate; this was because California Constitution, Article IV, Section 8 required that a bill be read on three separate days in each legislative house prior to final passage unless such reading is dispensed with by a rollcall vote, two-thirds of the membership concurring. Because the Legislature was scheduled to adjourn on December 29, time was too short to permit compliance with this three-reading requirement before then-Governor Brown left office; a two-thirds vote could not be garnered to dispense with the rule because Republican Senators would not be a party to it. The Democratic majority solved this apparent dilemma in another way, utilizing Assembly Bill 2X, the Board of Equalization reapportionment bill which had previously passed both legislative houses and had been sent to Governor Brown for signature. On the morning of December 29, 1982, in a highly unusual and extremely rare procedural move, the Democratic Senate leadership ordered that Assembly Bill 2X be removed from Governor Brown's desk and returned to the Senate.

The order was complied with. The Democratic leadership simultaneously directed the Legislative Counsel to prepare large-scale amendments to Assembly Bill 2X consisting of the congressional district descriptions in A.B. 5X with minor changes. Further changes to the proposed congressional districts were made on the Senate floor by handwritten interlineation of the Legislative Counsel's prior typewritten amendments because the Democratic leadership did not want to take the time to return the bill to the Legislative Counsel to prepare additional, formal amendments. The amendments were introduced by Democratic Senator David Roberti late on the afternoon of December 29 and the bill was debated, being roundly condemned by Republican Senators.

14. On the evening of December 29, the bill (now called A.B. 2X) came up for a final vote in the Senate and was passed by 21 to 10, 21 votes being the minimum number of Senators required to pass legislation. The vote was on strict party lines with 21 Democratic Senators in the majority and 10 Republicans in the minority. A.B. 2X was then immediately returned to the Assembly for concurrence. This was accomplished a few hours later by a strict party-line vote of 42 to 17, late in the evening of December 29, 1982.

15. The Legislature then adjourned and on Sunday, January 2, 1983, several hours before leaving office, Governor Brown signed A.B. 2X into law. A true copy of A.B. 2X is attached hereto as *Exhibit A* and incorporated herein by this reference.

16. Republican members of the Legislature were excluded from virtually all substantive involvement in constructing the A.B. 2X districts and from the legislative process that resulted in its enactment, as they had been in the case of A.B. 301. When the bill was voted upon, it consisted entirely of long lists of census tracts and tract portions. Despite repeated requests, no accurate or ade-

quately-detailed maps of the A.B. 2X district boundaries were provided to Republican legislative members or staff. The proposed congressional districts were never the subject of a committee hearing in either their A.B. 5X or A.B. 2X form. Again this secretive and truncated process was highly irregular and unusual for legislation of such great public importance.

17. The only reason for processing A.B. 2X with such urgency was to prevent the incoming Republican Governor from participating in the redistricting process. The speed and secrecy of the legislative process simultaneously was intended to and did insulate A.B. 2X and its proponents from the public outcry which would have resulted had their plans been made public earlier. Afterward there was widespread public condemnation of this truncated and transparently partisan legislative process, as reflected in newspaper articles, editorials and commentaries from one end of the State to the other, a sample of which is contained in Exhibit B hereto and incorporated by reference. The Legislature's haste resulted in numerous technical errors (including several noncontiguous districts) in A.B. 2X as it was signed into law and chaptered on January 2, 1983. There were so many errors of consequence that, many weeks after the bill was passed, the Democratic Chairperson of the Assembly Elections and Reapportionment Committee ordered staff to prepare a list of 21 administrative corrections to A.B. 2X. These corrections were then transmitted to and implemented by the democratic Secretary of State two months after A.B. 2X was signed into law and after the original complaint was filed in this case. A true and correct copy of the Secretary of State's March 17, 1983 letter to local election officials promulgating these corrections is attached hereto as Exhibit C and incorporated herein by this reference.

18. These corrections to A.B. 2X moved approximately 38,000 people among various districts. One such correction moved approximately 8,600 people from Congressional Dis-

trict 16 to Congressional District 12; without this adjustment, the population deviations in A.B. 2X would have exceeded 3% in violation of Article I, § 2 of the Constitution of the United States. The corrections were never the subject of formal legislative action or even committee hearings. No Republican legislator was informed of the corrections; they first learned of the corrections from local election officials who had received the Secretary of State's March 17, 1983 letter. Even one Democratic Senator who cast a decisive vote for A.B. 2X objected to the process by which these corrections were made as well as to their substantive content. The fact that corrections of such magnitude had to be made underscores the undue speed with which the Legislature acted in passing A.B. 2X. There was no legitimate reason for the Legislature to act on A.B. 2X with such haste; the only explanation for the legislative action was to force a blatant partisan gerrymander on an unwilling Republican legislative minority and on the public, hours before a Republican Governor took office. True and correct depictions of the congressional districts of A.B. 2X including the administrative corrections, all of which have been implemented, are attached hereto as Exhibits D and E and incorporated herein by reference. (Hereinafter the term "A.B. 2X" shall refer to the congressional districts contained in the bill but not the State Board of Equalization Districts therein.)

19. The rejected districts of A.B. 301 served as the building blocks and model for the A.B. 2X districts. Although physical territory and population were shifted between the new districts of A.B. 2X and the defunct A.B. 301 districts, the two plans are comparable in partisan impact. To the extent that A.B. 2X differs from A.B. 301 in partisan impact, it is that A.B. 2X fine tunes A.B. 301 by reinforcing the electoral advantage bestowed on Democrats with the information gained by the 1982 election results.

20. A.B. 2X is an intentional, invidious and effective gerrymander designed and functioning to dilute, minimize and/or cancel out the votes and voting strength of Republican voters across the state including plaintiffs and denies Republican voters including plaintiffs their right to fair and effective representation. As discussed in detail below, A.B. 2X carves up the state in such a way as to allocate congressional districts to Democrats in numbers far in excess of Democratic voting strength, and to Republicans in numbers far below Republican voting strength. The effect is to control and distort the composition of California's Congressional Delegation throughout the 1980s. Thus, A.B. 2X locks in grossly disproportionate election results and has other invidious effects including, without limitation, the destruction of Republican incumbencies, the wasting of Republican votes, the minimization of Republican voters' opportunity to elect congressmen of their choice, the systematic elimination of political competition, discrimination based on political association and other effects as detailed below. A.B. 2X represents one of the most, if not the most, egregious and effective partisan gerrymander of the 1980's. The architects of A.B. 2X artfully and successfully employed virtually everyone of the acknowledged gerrymandering techniques to design a discriminatory gerrymander against Republican voters including plaintiffs for exclusively partisan and personal motives. The partisan gerrymander achieved in A.B. 2X far exceeds the preexisting parameters of politics as usual in redistricting.

21. The partisan and personal objectives of the Democratic drafters of A.B. 2X were achieved through a computer assisted application of refined gerrymandering methodology to dismantle, merge and distort the Special Masters' pre-1982 congressional districts. The A.B. 2X districts will result in the persistent degradation of Republican voting strength and dilution of Republican votes both statewide and district-by-district throughout this decade.

The invidious effects of A.B. 2X are sufficiently serious to warrant federal court intervention. The methodology and effects of the A.B. 2X gerrymander include:

(a) Destruction of Republican congressional seats and the dismantling of represented Republican voting majorities by placing two or more Republican members of the United States House of Representatives in the same district, thereby arbitrarily eliminating three incumbent Republican members of Congress. Thus 1980 Republican incumbents in Districts 20 (Goldwater) and 21 (Fiedler) were both placed in new District 21, won by Fiedler. Republican Congressmen in Districts 22 (Moorhead) and 26 (Rousselot) were placed in new District 22, won by Moorhead. Republican Congressmen in District 33 (Grisham) and 35 (Dreier) were placed in new District 33, won by Dreier. Not surprisingly, no 1980 Democratic incumbent member of the House of Representatives had another Democrat incumbent placed in his or her district and all Democratic incumbents were reelected except for John Burton who retired and was succeeded by another Democrat, Barbara Boxer. Disparate treatment of incumbents, resulting in elimination of incumbent advantages, is a key gerrymandering tool.

(b) Depriving certain Republican incumbents of large portions of their former constituencies and depriving Republican majority constituencies of their elected representatives by fragmenting concentrations of Republican voting strength among two or more districts. For example, the core Republican voting base of Republican Congressman Dornan's District 27 under the Special Masters' Plan was fragmented into pieces which were allocated to numerous surrounding districts, many going to pack Republican District 42. This left no logical constituency from which incumbent Dornan could run. The new District 27 was much more Democratic in registration than the old 27th; it

was easily won in 1982 by Democratic Assemblyman Mel Levine.

(c) Manipulating district boundaries so as to create a Democratic voting advantage and minimize competition in the two additional congressional seats to which California was entitled as a result of the 1980 census; both of these new districts, 18 and 44, were won by Democrats, as were open seats created by the destruction of Republican incumbencies.

(d) Reducing Republican voting strength in marginally competitive districts by removing Republican voters or adding Democratic voting strength. For example District 2 under the Special Masters plan, which became District 1 under A.B. 2X was already a marginally Republican district. The district had net Democratic registration strength added to it, leaving the Republican incumbent vulnerable to a Democratic challenge. In 1982 the Republican incumbent lost the seat by a vote margin of 49.9% Democratic to 47.2% Republican. The seat was won by Democrat Assemblyman Doug Bosco. Democrats were also given a competitive edge in other previously marginal seats, including, without limitation, District 5 (which under A.B. 301 became District 6), District 11 and District 36.

(e) Preserving old district lines and core voting strength for Democratic incumbents. Unlike many of their Republican counterparts, no Democratic incumbent in 1980 had his or her district dismantled or made vulnerable by A.B. 2X.

(f) Packing of Republican voters including plaintiffs into congressional districts greatly in excess of the percentage needed to elect a candidate of their choice, thus wasting and diluting significant numbers of Republican votes and diminishing their effectiveness. For example, District 12 in the San Francisco Bay area,

an already solid Republican district, juts northward abruptly to pick up solid pockets of Republican voting strength around Hillsborough which naturally lies in District 11 which was won by a Democrat in 1982 and 1984. A colored map of District 12 is attached hereto as page 1 of Exhibit F which is incorporated herein by this reference. This practice of packing Republican voters is repeated in districts all over the State.

The examples contained in (a) through (f) above are for purposes of illustration and not limitation.

22. The contorted shapes of the A.B. 2X districts deviate substantially from objective criteria and effectively work to dilute Republican voting strength. The districts substantially diverge from a reasonable standards of compactness and arbitrarily ignore communities of interest. The boundaries of many of the districts twist and wind their way across the map of the state because to fragment and/or pack far flung pockets of Republican voting strength in order to limit Republican opportunities for electoral success. The uncouth, irregular and bizarre configurations of these districts are not necessitated by adherence to political subdivision or other geographical boundaries, and cannot be justified or explained except as indicia of deliberate and invidious partisan gerrymandering. The methodology described in paragraph 21, *supra*, manifests itself, in part, in the irregular, snakelike boundaries of A.B. 2X districts. To cite just a few examples of the relationship between tortured lines and packing or cracking:

(a) In the San Francisco Bay Area, District 6, which was a marginal Democratic seat under the Special Masters' Plan, meanders across marshlands and the bay to combine Democratic voting strength in Solano County (the Vallejo area) with Democratic strength in the northern tip of San Francisco, to dilute and submerge Republican strength in Marin County. This gave

rise to a narrow (52.4%) victory by a relatively unknown, last minute Democratic candidate in District 6 in 1982 which increased to 68% in 1984 with the significant benefits of incumbency. (See Exhibit F, page 1.)

(b) District 27 suddenly darts eastward in the middle section of the district to add solid Democratic votes to bolster the district's Democratic edge.

(c) In the San Diego area, the tortuous shape of District 44 was designed to pick up pockets of Democratic strength to guarantee a Democratic victory in this newly created district surrounded by Republican districts. District 44 carefully skirts the Republican voters who have been packed into Districts 41 and 45 which were both won in 1982 by the Republican incumbents with approximately 69% of the vote in each district. District 44 was won by a Democrat in 1982 and 1984. (See Exhibit F, page 3.)

(d) District 20 is an example of a district which ignores communities of interest as well as geographic regions. This district links expansive desert areas, mountain communities, central valley agricultural interests, metropolitan communities, and coastal areas in order to pack as many Republican voters as possible into one district.

(e) The City of Long Beach is divided by a dizzying line on the basis of partisan registration between the bizarrely shaped Districts 32 and 42 to pack Republicans into District 42 and safeguard the Democratic incumbent in District 32.

23. A.B. 2X violates numerous political boundary lines of cities and counties in its design of key districts to dilute Republican voting strength. These violations are, in key instances, necessitated only by partisanship. Because of their large populations, only 13 counties and 4 major cities

must be divided in forming congressional districts in the State of California. A.B. 2X places 37 California cities and 22 California counties in more than one congressional district. Certain of these splits are indicators of the gerrymander. A salient example is the division of the City of Fresno. (See Exhibit F, p. 1.) Fresno's population can be contained in a single district. Instead, its population is divided between districts to create a new Democratic District 18 for Assemblyman Richman Lehman. District 18 incorporates only parts of southern Stockton (the rest of Stockton is in District 14 which connects the City to the Oregon border), bypasses several nearby Central Valley cities to wind its way into the Sierra Nevada through Calaveras, Tuolomne, and Mono Counties, then hooks into the heart of Fresno to capture its Democratic voting strength including Assemblyman Lehman's home. District 18 was won by Assemblyman Lehman with 59.5% of the vote in 1982 and 67.3% in 1984. Counties are also strategically divided and dissected for partisan goals. Tiny Lake County's population, for example, can be easily contained in a single district. A.B. 2X divided the county between the First and Second Congressional Districts, in a complex trade-off of territory among districts solely for partisan purposes, including to enhance the Democratic edge in District 1. Riverside and San Bernardino Counties were dissected in order to create a Democratic seat in District 36 surrounded by Republican voting strength. (See Exhibit F, p. 2.) A.B. 2X even contains a non-contiguous district, District 27, which goes into the sea at Redondo Beach, around the Palos Verdes Peninsula, to San Pedro where it includes the harbor populations. Again the examples in this paragraph are for purposes of illustration and not limitation.

24. The bizarre and irregular A.B. 2X district configurations have pernicious effects in and of themselves by causing voter confusion and thus apathy about the identity of their Congressmember and any challengers; making it

difficult to recruit effective challengers to entrenched incumbents thereby giving incumbents an enormous advantage; increasing the difficulty and expense of campaigning thereby enhancing the advantage enjoyed by incumbents who have the benefit of public identification and ready access to the news media; increasing the difficulty of physical access of constituents to their Congressmember to obtain assistance on personal matters and to express their opinions on current issues; and making it more difficult for a Congressmember to represent a district with numerous, disparate and conflicting local and regional interests.

25. None of the foregoing deviations from rational criteria is required to redistrict in California. The criteria utilized by the Special Masters and the districts created thereby stand in dramatic contrast to the A.B. 2X districts. For example, a brief inspection of the maps of the Special Masters' Plan and A.B. 2X (attached as Exhibits G-1 and G-2, respectively) in the Los Angeles area, is revealing and demonstrates there is no need for the tortuous districts of A.B. 2X.

26. In enacting the districts of A.B. 2X, the Legislature was preoccupied with factors other than legitimate state goals such as population equality or fair treatment of minorities. The paramount concern of the Legislature in fashioning the congressional redistricting plan embodied in A.B. 2X was the enhancement of the electoral prospects and voting strength of Democrats to the detriment of Republican voters in disregard of the constitutional mandate of fair and effective representation for all California voters and equal protection of the laws. As a result of A.B. 2X, Republican voters, including plaintiffs, individually and as a group are substantially disadvantaged in their opportunity to influence effectively the political process in the election of members of the United States House of Representatives and their votes are diluted and made less effective than the votes of Democrats. A.B. 2X discrimi-

nates against plaintiffs and all Republican voters by purposely diluting, minimizing or canceling out their votes and voting strength statewide and in individual districts across the state. The effect of A.B. 2X is to divide up the State's congressional districts in such a way as to allocate a substantial and permanent majority of seats to Democratic party candidates in percentages far superior to the statewide voting strength of Democratic voters thereby maximizing the efficiency of Democratic votes and wasting Republican votes and rendering them ineffective. This arbitrary and discriminatory allocation of congressional districts enables virtually every Democratic incumbent to continue in office for the entire decade without competitive reelection challenges and insulates them from the need to be responsive to, or representative of the shifting opinions and convictions of California voters. The gerrymander becomes stronger and more immutable with each passing election due to the advantages of incumbency. In effect the drafters of A.B. 2X carved California up into 45 congressional districts in such a way as to pre-ordain the partisan makeup of California's delegation to the United States House of Representatives, arbitrarily allocating a substantial majority of such seats to Democrats despite the fact that relative two-party voting strength is at a minimum equal and growing more Republican with each passing election. Indeed, the A.B. 2X districts are manifest proof that gerrymanders can and do work if drawn with sufficient expertise and sophistication. This is demonstrated by the extreme disproportionality which now exists and which will continue to exist throughout this decade between the number of votes cast for Republican candidates and the number of Republican congressmen elected. In the November, 1982 election under A.B. 301, 48.4% of the two-party vote cast in congressional races in California was for Republican candidates and 51.6% for Democrats; yet, as a direct result of the gerrymander only 37.8% or 17 seats were won by Republicans and 62.2% or 28 seats

were won by Democrats. In the November, 1984 congressional elections under A.B. 2X, of the two-party vote approximately 50.1% was for Republican candidates and approximately 49.9% was for Democratic candidates. Republican candidates received more votes than Democrats but because of A.B. 2X's effective gerrymander, only 40% or 18 congressional seats were won by Republicans and 60% or 27 congressional seats were won by Democrats. (True and correct copies of the official Statement of the Vote for the 1982 and 1984 congressional elections are attached hereto as Exhibits H and I and incorporated herein by reference.) The one seat of 45 that changed hands in 1984 was District 38 (consisting of large portions of Orange County) and the circumstances there were unique. Robert Dornan, a well-known 1980 Republican incumbent from old District 27, which was dismantled in A.B. 2X, ran and won in new District 38 after moving his home there. The margin of victory was eight percentage points, the most competitive of any A.B. 2X district.

27. The 1982 and 1984 election results were the predictable consequences of the arbitrary partisan division and allocation of California's 45 congressional districts and are a reliable predictor of future consequences. The persistent degradation of Republican voting strength affected by A.B. 2X will continue through this entire decade. Given the configurations of the A.B. 2X district boundaries, the partisan composition of the districts and projections from past voting patterns, this continued frustration of the will of California voters can be reliably predicted to persist in the 1986, 1988, and 1990 congressional elections. Because of the partisan gerrymander, Republicans predictably cannot gain a majority of the California Congressional Delegation throughout the 1980's; the composition of the Delegation will remain virtually immutable in 1986 and change little if at all thereafter. (Plaintiffs request the Court to take judicial notice of the 1986 Congressional election results when they are tabulated.)

28. A.B. 2X has the further effect of minimizing and eliminating virtually all competition in congressional elections, depriving Republican voters as a group of the opportunity to effect election results on a statewide basis in individual districts thereby frustrating their ability to effectuate changes in public policy through the election of persons who share similar beliefs. In 1984, only two California Congressmembers were elected by a margin of victory of less than 10%; no Congressmember was elected by a margin of victory of less than 8% of the vote. Eight were elected by margins in excess of 50%; thirteen were elected by margins between 40% and 50%; nine were elected by margins between 30% and 40%; ten were elected by margins between 20% and 30%; and three were elected by margins between 10% and 20%. These substantial margins of victory minimize the potential of recruiting top-flight candidates with sufficient financial resources for serious partisan competition in virtually any of the districts. Entrenched Democratic incumbents will continue to be re-elected without need to attend to the views of fragmented and submerged Republican minorities in their districts and are insulated from those views by their overwhelming margins of victory. Despite traditional partisan competitiveness in California, A.B. 2X eliminates competition and will diminish effective representation of the views and beliefs of Republican voters in the composition of California's Congressional Delegation.

29. The California Legislature intentionally gerrymandered the 1983 congressional districts to dilute Republican votes, to minimize or cancel out the voting strength of Republican voters and to procure the assured election of the greatest number of Democratic Party candidates, thereby denying all Republican voters including plaintiffs their rights to equal protection of the laws and an equally-weighted vote, to fairly draw congressional districts, and to fair and effective representation in Congress. The history of A.B. 2X is one of unbridled partisanship and over-

riding personal interest evidenced by the fact that four Democratic Assemblymen were graduated to Congress. The passage of A.B. 2X reveals a series of official actions taken arbitrarily and capriciously and which were not necessary to further any legitimate state policy.

30. The relief sought herein does not conflict with any legitimate state goal. The congressional districts can be redrawn easily and quickly to comport with one-person, one-vote requirements and to provide an equal or greater level of minority representation than exists under A.B. 2X, while at the same time providing for fair and effective representation for all California voters.

31. For the foregoing reasons, A.B. 2X violates plaintiffs' constitutional rights under Section I of the Fourteenth Amendment to equal protection under the law to the redistricting of California through adherence to due process of law.

SECOND CAUSE OF ACTION

(Article I, Section 2)

32. Plaintiffs incorporate herein by reference the allegations contained in paragraphs 1 through 31 inclusive of the First Cause of Action as if fully set forth in this Second Cause of Action. Plaintiffs do not believe they are required to prove intent under this cause of action but reserve the right to offer such proof if so required by the Court.

33. This case also arises under Article I, Section 2, of the Constitution of the United States which provides in pertinent part, that Members of the House of Representatives be chosen "by the People of the several states," thereby requiring that, as nearly as practicable, each person's vote in a congressional election must be equal.

34. A.B. 2X is an unjustifiable infringement of plaintiffs' constitutional rights under Article I, Section 2 of the United States Constitution.

THIRD CAUSE OF ACTION

(First Amendment)

35. Plaintiffs incorporate herein by reference the allegations contained in paragraphs 1 through 31 inclusive of the First Cause of Action as if fully set forth in this Third Cause of Action. Plaintiffs do not believe they are required to prove intent under this cause of action but reserve the right to offer such proof if so required by the Court.

36. This case also arises under the First Amendment of the Constitution of the United States which protects the exercise of the fundamental rights of freedom of speech and association. A.B. 2X violates these freedoms by penalizing Republican voters solely because of their party affiliations, political beliefs and associations and by chilling public debate on issues of public importance.

FOURTH CAUSE OF ACTION

(Guarantee Clause)

37. Plaintiffs incorporate herein by reference the allegations contained in paragraphs 1 through 31 inclusive of the First Cause of Action as if fully set forth in the Fourth Cause of Action.

38. This case also arises under Article IV, Section 4 of the Constitution of the United States which provides that the United States shall guarantee to every State in the Union a republican form of government.

39. A.B. 2X violates this constitutional provision because it creates and results in a defective electoral structure for congressional districts in California, which structure violates and dilutes plaintiffs' rights under Article I, section 2 and the First and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, Plaintiffs respectfully pray:

1. That the Court declare that A.B. 2X is now and prospectively in violation of the Constitution of the United States and is now and prospectively null and void and of no further force and effect insofar as it establishes congressional districts for the State of California.

2. That the Court prelimarily and permanently restrain and enjoin defendant Secretary of State from ordering or conducting any electoral processes under A.B. 2X, from certifying the results of any such election, and from taking any other steps with respect to the election of Members of the United States House of Representatives, until there has been a further redistricting of Congressional districts.

3. That the Court order appropriate remedies, which could include referral to the California Legislature and Governor with guidelines to pass into law within a specific timeframe a new congressional redistricting statute; promulgation of congressional redistricting plan by appointment of Special Masters; solicitation and review of proposed congressional redistricting plans from interested parties or such other means as the Court deems appropriate.

4. That the Court retain jurisdiction of this action until such time as a congressional redistricting plan is promulgated in accordance with constitutional requirements.

5. That the Court award Plaintiffs their costs and reasonable attorneys' fees in connection herewith.

6. And that the Court enters such other and further relief as may, to the Court, seem just and proper.

DATED: October 1, 1986

Respectfully submitted,

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PARRINELLO & MUELLER

By: /s/ JAMES R. PARRINELLO
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APPENDIX D

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S., *Plaintiffs,* vs. MARCH FONG EU, Secretary of State of the State of California, *Defendant,*	No. C-83-1126RHS THREE-JUDGE COURT EXHIBITS TO THIRD AMENDED COMPLAINT

ASSEMBLY OF THE STATE OF CALIFORNIA, THE CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION,	)
Intervenors.	)

EXHIBIT A

Exhibit A of Plaintiffs' Exhibits to the Third Amended Complaint is the full text of A.B. 2X. Since this 88 page statute is expressed almost entirely in terms of census tracts, census enumeration districts, census block groups and blocks, without relation to maps, appellants believe its usefulness to the Court at this time would be limited. The full text of A.B. 2X is, however, codified at California Elections Code 30030, *et seq.*, Stats. 1983, C. 6, Sec. 3. 1st Ex. Sess.

EXHIBIT B

EXHIBIT B

[San Jose News, Dec. 9, 1982]

Reapportionment: They're at it again!

CALIFORNIANS said last June they didn't like the way the Legislature drew the boundary lines for 80 Assembly, 40 state Senate and 45 congressional districts. Now, the lawmakers are at it again, and this time they should give the people a piece of the action.

New Assembly and Senate reapportionment bills have been introduced, and hearings are scheduled next week in Sacramento and, in the case of the Senate plan, in San Francisco as well. The new congressional reapportionment bill hasn't been introduced yet, although Assemblyman Richard Alatorre, D-Los Angeles, the 1981 chairman of the Assembly Elections and Reapportionment Committee, is expected to carry this piece of legislation.

It all sounds busy and efficient, but unfortunately less is going on than meets the eye.

First, these scheduled hearings may be little more than window-dressing. They are being called hurriedly, with a minimum of advance publicity. How many interested individuals and organizations will be able to attend, and how seriously will the lawmakers take their suggestions? Past experience suggests the public will be heard but hardly heeded.

Second, neither the Assembly nor the Senate reapportionment committees intends to provide the public with detailed, district-by-district maps at any of the scheduled hearings. Witnesses, whoever they may be, will have virtually no opportunity to determine precisely how the new boundary lines will affect them, and that will make it all the more difficult for them to comment intelligently.

As planned, these "public hearings" will be little better than shams.

If the Legislature really wants to defuse public suspicion that it is breeding another gerrymander, it will schedule a series of hearings in both Northern and Southern California, publicize them widely and provide detailed maps to the press and public.

Capitol observers predict all three reapportionment bills, which will draw new legislative and congressional district lines to reflect population shifts, will be voted on the week before Christmas. The tightness of this schedule suggests the Legislature has no intention of pondering, much less acting on, the public's desires regarding reapportionment.

The Democrats control both houses of the Legislature now as they did in 1981, when they produced the gerrymander rejected by the voters, and the Democrats' hurry to get the job done before Christmas is understandable, if less than noble. Gov. Jerry Brown leaves office Jan. 3, to be succeeded by Republican Gov. George Deukmejian. Deukmejian could, and almost surely would, veto any reapportionment bill objected to by legislative Republicans.

One of the unfortunate results of the 1981 reapportionment is that 600,000 residents of northern Santa Clara and southern San Mateo counties will be without an elected state senator until 1985. They live in a "new" Senate district that has no incumbent and in which no election is scheduled until 1984.

The 1982 Legislature cannot undo this particular bit of damage, but full public hearings now — not window-dressing — could ensure that a bad situation won't be made worse.

[San Francisco Chronicle, Dec. 30, 1982]

3 New Plans Go to Brown

State Demos Finish Redistricting

By Steve Wiegand

Chronicle Correspondent

Sacramento

Democratic state legislators, battling Republicans and each other, pushed through a new reapportionment plan for the state's 45-seat congressional delegation last night.

The Senate voted 21 to 10, the exact number needed, to approve the proposal that redraws congressional district boundaries. No Republicans voted for it, and one Democrat—Senate Democratic Majority Leader John Garamendi of Walnut Grove—voted against it.

The Assembly, which had already given initial approval to the plan, concurred in Senate amendments and sent the measure to Governor Brown on a strictly partisan, 42-to-17 vote.

Republicans promptly repeated their threat to try and block the plan in court or through the election process with a referendum or initiative.

The votes and threats capped a day of bizarre parliamentary manuevers in which Democratic senators, assemblymen and respresentatives engaged in a swap-meet spree of shuffling cities and counties from district to district in an effort to get enough votes to put a plan on Governor Brown's desk before he leaves office on Monday.

Reapportionment plans for the Assembly and Senate were sent to Brown early yesterday.

But the congressional plan was stalled in the Senate by Republicans who said it was "odious" and by several Dem-

ocrats who either didn't like the way the lines were drawn or objected to the fact that no public hearings were ever held on the plan. A half-dozen Democratic members of Congress, meanwhile, stalked legislators in the Capitol halls to lobby for changes in their districts.

Private negotiations between legislators and congressmen made such drastic changes in the plan—engineered by Representative Phil Burton, D-San Francisco, Representative Howard Berman, D-Los Angeles, and several others—that Democratic Senate leaders admitted they weren't quite sure what they were urging other members to vote for.

"No one on this floor knows what's in this Bill," complained Senator Milton Marks, R-San Francisco. "A covey of congressmen have been hanging over us in the past two or three days trying to tell us what to do."

Senator Dan Boatwright, D-Concord, the chairman of the Elections and Reapportionment Committee, said the legal language in the bill bore only faint resemblance to the maps senators were shown. Boatwright, who did not vote on the plan, also pointed out that no testimony was ever taken.

Garamendi voted against the plan when his colleagues rejected his proposal to reunite cities and counties in his district that were divided among three congressional districts.

Democrats have majorities in both the Assembly and Senate and reapportionment plans require only a majority vote to be approved. But Democrats were in a hurry to get the plans to Governor Brown because his replacement, Republican George Deukmejian, is likely to veto any Democratic redistricting plan.

In order to avoid legislative rules that require new bills to be in existence at least three days before being considered, Democrats recalled a bill from Brown's desk that

created new districts for the state Board of Equalization and had already been approved by the Assembly and Senate. The congressional plan was amended into the Board of Equalization bill, which has been around for more than a week.

Democratic reapportionment proposals for the congressional delegation, the Senate and the Assembly pushed through the Legislature last year were all rejected by voters last June, forcing legislators to do it over again.

But unlike last year's bitter and protracted battle over legislative redistricting plans Republican and Democratic legislative leaders mutually agreed to protect most incumbents by giving them safe seats.

The most glaring exception was 71-year-old Republican Senator Ray Johnson, whose Chico home was dumped into a neighboring district represented by GOP Senator James Nielsen of Woodland, by mutual consent of both parties' leaders.

Johnson, whose homespun homilies and folksy manner have endeared him to Democrat and Republican alike, said yesterday he has been invited by Democrats "in high places" to switch his registration.

[Sacramento Union, Dec. 9, 1982]

Reapportionment tango

It should be clear by now that despite all the tub-thumping about the state's financial crisis, the real reason why the Legislature is in session this month—a special session no less—is the redrawing of congressional and legislative district boundaries for the 1984 elections.

That chore is required to be done, albeit not necessarily this month, because the previous plans enacted by Democrats over Republican objections were later rejected by voters.

The reason the Democratic leaders of the Legislature want to do it now is they want to act while their fellow Democrat, Jerry Brown, is still governor. They are certain he'll sign whatever reapportionment bills they devise. But once Republican George Deukmejian is installed as governor, he would compel the Democrats to be more solicitous of the Republicans' desires in rearranging districts by threatening a veto.

In the minds of most of those who occupy the Capitol, taking care of reapportionment is far more important than dealing with the prospect that the state will be broke and unable to pay its bills within six months. That may not be as it should be but that is the way it is.

It would appear that the Republicans' fears of what the Democrats have in mind are well-founded. The preliminary plans drawn up by Democratic staffers in both houses enhance the electoral prospects of the Democrats and make it more difficult for Republicans to win legislative seats in 1984.

In the Assembly, for example, that is accomplished by merging adjacent Republican districts to force GOP incumbents to run against each other or move into new territory to keep their seats.

What's most interesting about the Democratic reapportionment plans seeping out of the Capitol is that the majority party is staying its course of using reapportionment as a tool of political warfare even though voters indicated in June, by rejecting the earlier plans, that they aren't happy with that policy.

One should, incidentally, not paint the Democrats as the sole villains of the situation. Although Republicans are the partisan victims in this particular case, one suspects they would do violence to Democrats if they were in the majority.

What's working here is a fundamental disagreement between the 20 million-plus Californians and their political leaders, regardless of partisan stripe.

The broader public, if it thinks of reapportionment at all, sees the process as one of equalizing the population of districts in a manner that retains certain communities of interest and avoids the butchery of city and county lines—regardless of its impact on the political futures of individual politicians. Most Californians, it would be safe to say, don't consider the first duty of elected officials to be self-preservation.

But politicians view the process in a completely different manner. Their own individual futures and those of their respective parties loom uppermost in their minds. They are far more important considerations than the effect of reapportionment on local communities.

That difference of basic attitude was demonstrated recently in an interview that Assembly Speaker Willie Brown gave the San Diego Union.

He said the earlier plans were rejected because they were perceived by the press as being "skewed toward incumbents." "So I can only conclude," Brown said, "that the only factor not on the table when you comply with the law is self-sacrifice of a maximum number of incum-

bents. Then they (the press) will be impressed you've done the job objectively, you've not gerrymandered it, you've not looked out for your best interests."

Brown, I rather think, misconstrues the attitude of the press toward reapportionment, which is fairly reflective of the larger public's attitude on this issue.

It's not that non-political critics want to see a maximum number of incumbents sacrificed. It is that the fate of incumbents should be secondary to creation of legislative districts which fairly represent the demographic and political makeup of the state and the communities of interest and which are not tailor-made to the political specifications of individual politicians.

Those districts, after all, are supposed to belong to the citizenry, not those who are elected to public office.

Dan Walters is chief of The Union's Capitol bureau.

[Sacramento Bee, Dec. 28, 1982]

New Demo Plan For Congressional Districts May Spur Battle

Republicans Plan Action If Lawmakers Approve Remapping

By Jim Dufur
Bee Capitol Bureau

Democrats in the state Legislature Monday unveiled a plan to redraw the boundaries of the state's 45 congressional districts.

If it is adopted by the majority Democrats in the two houses, a Republican spokesman said, the GOP will go to the ballot box to try to get the plan repealed.

Tony Quinn, policy director for the Assembly Republican caucus, said the Democrats—who increased their majority in the California congressional delegation from one to 11 through their 1981 redistricting plan—are trying in the current plan to gain another seat.

He said the plan would make it difficult for a Republican to win the seat held by GOP Rep. Robert J. Lagomarsino of Ventura. However, Quinn said, Lagomarsino himself should be able to win re-election in the new district.

"There will be a referendum (on the plan)," Quinn predicted.

But Tom Dey, a spokesman for GOP Assembly leader Robert Naylor of Menlo Park, said the GOP could either fight the plan on the ballot or in the courts. The decision, he said, will be made by congressional Republicans.

In 1981, Republicans forced a ballot referendum on the Democratic plans for reapportioning the Senate. Assembly and congressional districts, and voters repealed the plans

last June. In November, voters turned down a proposal from the Republicans and Common Cause for an independent commission to handle redistricting. That left to the Legislature the task of adopting adopt [sic] new boundaries for the 1984 elections.

The Assembly Elections and Reapportionment Committee placed the redistricting plans for the Assembly and the state Senate into one bill Monday and sent it to the Assembly floor. It is scheduled for consideration today. Both plans now have bipartisan support, although some Republicans still are unhappy over the Senate plan pitting GOP Sens. Ray Johnson of Chico and John Doolittle of Sacramento against each other in the 1984 GOP primary.

Under the Assembly plan, no incumbents would be forced into running against each other.

While legislative approval of the Senate and Assembly plans appears assured, Democrats in the Senate continued to insist that a public hearing be held on the congressional plan before they will vote on it.

Little time remains for a hearing because legislators plan to leave the Capitol Wednesday for the New Year's weekend.

Democrats are eager, however, to get all of the reapportionment plans signed into law by Democratic Gov. Brown before he leaves office Jan. 2, fearing GOP governor-elect George Deukmejian would certainly veto the congressional plan and, possibly, the other plans.

The congressional plan was devised primarily by Democratic Rep. Phillip Burton of San Francisco, who masterminded the 1981 plan that resulted in the Democrats gaining a 28-17 majority this year in the California congressional delegation.

Assemblyman Richard Alatorre, D-Los Angeles, who is carrying both the Assembly-Senate and the congressional

reapportionment bills, maintained that the congressional plan "is not a work product of anyone else, it is a work product of the Assembly."

Action on the congressional bill had been delayed until the committee chairwoman, Maxine Waters of Los Angeles, who is considering a run for Congress in the future, was satisfied with the lines of the district where she would be a candidate.

In the Central Valley, the principal change in the new congressional plan would place all of Stanislaus County in the district represented by Tony Coelho, D-Merced. Currently, part of the county is in the district of representative-elect Ed Zschau, R-San Mateo.

By gaining Stanislaus County, Coelho would lose Madera County to newly elected Rep. Richard Lehman, D-Fresno. Coelho would retain Merced and Mariposa counties and western Fresno County.

Lehman would retain sizable portions of the cities of Stockton and Fresno, plus the counties of Calaveras, Tuolumme and Mono.

GOP Rep. Norman Shumway of Stockton would continue to share the city of Stockton and San Joaquin County with Lehman, while also representing Alpine, Amador, Placer, Nevada, Sierra, Plumas, Lassen and Modoc counties.

The district represented by GOP Rep. Eugene Chappie of Chico would move into portions of Napa and Yolo counties. His district also would include the counties of Yuba, Sutter, Butte, Glenn, Trinity, Tehama, Shasta and Siskiyou counties.

By giving up a portion of Yolo County, Democrat Vic Fazio of West Sacramento would pick up the city of Lincoln and portions of Placer County, while retaining portions of northern and southern Sacramento County, including Folsom, Citrus Heights, North Highlands, Galt, Walnut Grove, Herald and Wilton.

Democratic Rep. Robert Matsui of Sacramento would retain the remainder of Sacramento County.

GOP Rep. Charles Pashayan of Fresno would have a more GOP-oriented district, according to GOP consultant Quinn, because he would pick up Clovis and the Fig Garden area of Fresno, while retaining Kings and Tulare counties and the Delano-McFarland area of Kern County.

[Sacramento Bee, Dec. 30, 1982]

Congressional, Legislative Redistricting Sent To Brown

By Jim Dufur
Bee Capitol Bureau

Under intense pressure from congressional Democrats, the state Legislature Wednesday night passed a bill that redraws the boundaries of the state's 45 congressional districts.

Senate Republican leader William Campbell of Hacienda Heights warned that the plan faces a possible court or ballot challenge.

The vote in the Senate was 21-10, with Senate Democratic floor leader John Garamendi of Walnut Grove joining nine Republicans in voting against it. In the Assembly the vote was 42-17, with Republicans providing the "no" votes and Democrats providing all the "yes" votes.

The bill was send [sic] to Gov. Brown late Wednesday for his signature, and lawmakers promptly recessed until Monday, when Republican George Deukmejian will be sitting in the chief executive's office.

The action ended 48 hours of feverish activity by congressional Democrats, who could see their safe districts being shattered by a potential Deukmejian veto.

Campbell said the GOP opposes the bill because it "locks in" the current 28-17 Democratic majority in the California congressional delegation.

Campbell noted the margin grew from one to 11 as a result of the reapportionment bill pushed through by Democrats in 1981.

In the Assembly, Democrats Jim Costa of Fresno and Sam Farr of Carmel diclined to vote. Costa reportedly

sought to have the bill amended to include a district in which he could, in future years, run and win. Costa said, however, he simply didn't like some of the lines of the districts.

"I don't know what I'm going to do tomorrow," he said, and couldn't comment on what might happen "down the road."

Farr and Sen. Henry Mello, D-Watsonville, who tied up the Senate for two hours seeking changes in the lines in Santa Cruz County, were unhappy with the boundary lines in their area.

Garamendi opposed the bill because of what he called the "bent dumbbell" district that runs from Stockton, into the Sierra and down to Fresno. It currently is represented by former Assemblyman Richard Lehman, D-Fresno, who joined what a senator called a "covey of (Democratic) congressmen" who have lobbied legislators the past two days for their redistricting plan.

The congressional redistricting bill, which also includes new lines for the state's four Board of Equalization districts, is the second reapportionment bill considered by the Senate this week. In the early morning hours Wednesday, a bill containing the Senate and Assembly redistricting plans was sent to the governor's desk on a vote of 30-7, over the vociferous protests of Sen. Ray Johnson, R-Chico.

Johnson complained he had been "knifed" and "shafted" by anonymous Democrats and Republicans, and possibly "serviced" by fellow Republican John Doolittle of Sacramento, his possible opponent in the 1984 Republican primary.

Later Wednesday, Johnson said that although he has "no intention at this time" of resigning from the Senate or switching his registration to the Democratic Party because of the reapportionment bill, he is considering those options in an effort to avoid a costly and disruptive 1984

GOP primary. He will make a decision, he said, next fall—"when the snow flies in the Siskiyous."

In the bill, Johnson's 1st District was changed so that it does not include his home but does include Doolittle's. A third-generation Butte County resident, Johnson said he probably will rent an apartment in northeast Sacramento County, where Doolittle resides, in order to remain in his district and seek re-election.

Doolittle, who was reapportioned out of his district by the Democrats in 1981, already has announced he will run in the 1st District in 1984.

Doolittle has predicted Johnson will not seek re-election but will instead receive an appointment in the Reagan or Deukmejian administrations. If Johnson does not run, GOP Assemblyman Stan Statham of Redding said he will consider challenging Doolitte. Statham said he will not, however, challenge Johnson.

While gaining portions of Sacramento and Yolo counties, the 1st District lost Butte County. It still includes El Dorado, Placer, Nevada, Sierra, Sutter, Yuba, Lassen, Plumas, Modoc, Siskiyou and Trinity counties.

The bill with the Senate and Assembly plans contains an "urgency clause," which not only will cause it to go into effect as soon as it is signed by Gov. Brown but also will keep it off the ballot. The state constitution does not allow a ballot referendum on a bill containing an urgency clause.

In 1981, Republicans forced referendums on the Democratic plans for Senate, Assembly and congressional reapportionment and voters in June repealed all three plans. Last month, voters turned down a proposal for an independent commission to handle reapportionment, forcing the Legislature to produce new redistricting plans.

EXHIBIT C

EXHIBIT C

Office of the Secretary of State
March Fong Eu
Elections Division
(916) 445-0620

1230 J Street
Sacramento, California 95314

March 17, 1983

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS

SUBJECT: REAPPORTIONMENT

Enclosed for your information and use are technical corrections for assembly and congressional districts described in Assembly Bill 2 and Senate Bill 3 and chaptered as 6 and 8, 1983 Statutes respectively.

Copies of maps describing assembly and congressional districts are now being prepared and will be forwarded to you within two weeks.

If you have any comments or questions regarding maps or corrections, please feel free to contact me.

Sincerely

/s/ DAVID B. PITMAN
DAVID B. PITMAN
Assistant Chief of
Elections

OBP/dj

Enclosures

SECRETARY OF STATE
TECHNICAL CORRECTION TO
AB2-CHAPTER 6

1. CD 1—Napa County - page 3
   CT 2013—*Corrected description*: All except BG 2 and bks 101, 102, 103, 105, 106, 109, 110 and 113.

2. CD 3—page 6
   CT 59.01—*Delete* bks 115, 122
   CT 82.05—*Delete* from list of whole tracts; add to partial tracts description: Portions not in the City of Folsom

3. CD 6—Sonoma County - page 8
   Add: CT 1535—BGs 1, 3 and ED 0063

4. CD 7—page 11
   Add: CT 3440—Portions in the City of Walnut Creek

5. CD 12—page 20
   Add: CT 1211
   Add: CT 1208—Portions in the City of Scotts Valley
   Add: CT 1224—All except bks 206, 207, 208, 209, 210, 211, 212, 214 and 219

6. CD 13—page 22
   CT 5046.02—*Corrected description:* Portions in the City of Santa Clara
   CT 5070—*Add to description:* the entrapped unincorporated portions of bks 207, 904

7. CD 15—Fresno County - page 23
   CT 19—*Add to description:* except blk 299

8. CD 18—page 26
   CT 12—*Delete* bks 418, 419, 422, 427, 430

9. CD 19—page 28
   CT 47.02—*Add to "all except" description:* unincorporated parts of bks 205, 301, 302, 303

10. CD 20—page 28

Add: CT 9007.01
CT 9201—*delete* bks 112, 113, 114, 115, 116, 122, 202
CT 9203.21—*delete*

11. CD 21—pages 29 and 30
CT 1064—*delete* bk 311; *add* bk 433
CT 1111.02—*change* BG 7 to BG 1
CT 1344.02—*Corrected description:* All except bks 210, 211, 212, 219, 225, 226 and BG 3 except bk 318
CT 9007.01—*delete*
Add: CT 9203.21

12. CD 23—page 36
Add: CT 2674.01—bks 101, 202, 204

13. CD 27—pages 45, 47, 48
CT 2674.01—*delete* from list of whole tracts; *add* to partial tracts description: Portions not in CD 23
CT 2913—*delete* from list of partial tracts; *add* to whole tracts
Add: CT 2931—BGs 1, 2, 9 and bk 411
CT 6023.01—*delete*
CT 6037.02—*delete* from list of whole tracts; *add* to partial tracts description: Portions not in the City of Hawthorne

14. CD 30—page 55
CT 4340—*add* bks 503, 517
CT 5313—*Corrected description:* BG 7 excluding bk 703

15. CD 31—pages 56, 58
CT 2913—*delete* from partial tracts
CT 2931—*delete* from list of whole tracts; *add* to partial tracts description: Portions not in CD 27
CT 5705—*Corrected description:* bks 504, 505, 713, 714, 716
CT 6023.01—*delete* from partial tracts; *add* to whole tracts
Add: CT 6037.02—Portions not in CD 27

16. CD 32—page 60
CT 5514—*delete* bks 202, 203, 204, 205

17. CD 34—page 65
CT 4057—*insert* after "Covina" - incorporated as of June 1, 1982
CT 4084.02—*change* "Pomona Fwy *and* west of" to "Pomona Fwy *or* west of" *add* bk 108

18. CD 36—pages 67-69
CT 410 (Riverside County)—*delete* from list of whole tracts; *add* to partial tracts — *description:* portions not in the City of Norco
CT 74.02 (San Bernardino County)—*add* to "all except" description — excluding bks 223, 235, 238
CT 76 (San Bernardino County)—*delete* from list of whole tracts; *add* to partial tracts — *description:* portions not in the City of Redlands

19. 42—pages 79, 80
CT 5771 (Los Angeles County)—*Corrected description* - all except BGs 1, 4, 5, and bks 201, 206
CT 992.04 (Orange County)—*delete* from list of whole tracts; *add* to partial tracts — *description:* portions not in the City of Fountain Valley
CT 992.35 (Orange County)—*delete* from "all except" description — bks 120, 121

20. CD 43—pages 82, 83
CT 207.03 (San Diego County)—*add* to "all except" description: uninc., parts of bks 908, 916, 917, 928, 930
CT 524.09 (Orange County)—*delete* from partial tracts; *add* to whole tracts

21. CD 45—page 85
CT 32.04—*add* to "all except" description — and portions in the City of Chula Vista
CT 207.04—*add* to "all except description — unincorporated bks 210, 236, 237

EXHIBIT D

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CONGRESSIONAL DISTRICT 1

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CALIFORNIA AB2X

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CONGRESSIONAL DISTRICT 2

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CONGRESSIONAL DISTRICT 3

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CONGRESSIONAL DISTRICT 4 EXHIBIT D, PAGE 4 OF 45

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CONGRESSIONAL DISTRICT 5

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CONGRESSIONAL DISTRICT 6

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CONGRESSIONAL DISTRICT 7

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CONGRESSIONAL DISTRICT 8

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CONGRESSIONAL DISTRICT 9

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CONGRESSIONAL DISTRICT 10

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CONGRESSIONAL DISTRICT 11

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CONGRESSIONAL DISTRICT 12 EXHIBIT D, PAGE 12 OF 45

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CONGRESSIONAL DISTRICT 13

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CONGRESSIONAL DISTRICT 14 EXHIBIT D, PAGE 14 OF 45

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57 CONGRESSIONAL DISTRICT 15 EXHIBIT D, PAGE 15 OF 45

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CONGRESSIONAL DISTRICT 16

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CONGRESSIONAL DISTRICT 17

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CONGRESSIONAL DISTRICT 18

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CONGRESSIONAL DISTRICT 19

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62 CONGRESSIONAL DISTRICT 20 EXHIBIT D, PAGE 20 OF 45

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CONGRESSIONAL DISTRICT 21

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64 CONGRESSIONAL DISTRICT 22

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65 CONGRESSIONAL DISTRICT 23

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CONGRESSIONAL DISTRICT 24 EXHIBIT D, PAGE 24 OF 45

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CONGRESSIONAL DISTRICT 26 EXHIBIT D, PAGE 26 OF 45

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CONGRESSIONAL DISTRICT 27

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CONGRESSIONAL DISTRICT 28

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CONGRESSIONAL DISTRICT 29 EXHIBIT D, PAGE 29 OF 45

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72 CONGRESSIONAL DISTRICT 30 EXHIBIT D, PAGE 30 OF 45

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73 CONGRESSIONAL DISTRICT

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74 CONGRESSIONAL DISTRICT 32 EXHIBIT D, PAGE 32 OF 45

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75 CONGRESSIONAL DISTRICT 33 EXHIBIT D, PAGE 33 OF 45

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CONGRESSIONAL DISTRICT 34

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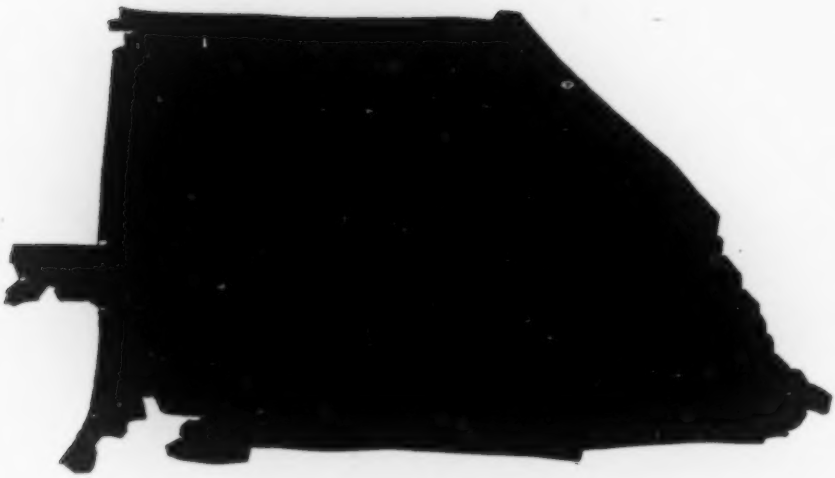
CALIFORNIA AB2X



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77 CONGRESSIONAL DISTRICT 35 EXHIBIT D, PAGE 35 OF 45

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78 CONGRESSIONAL DISTRICT 36 EXHIBIT: D, PAGE 36 OF 45

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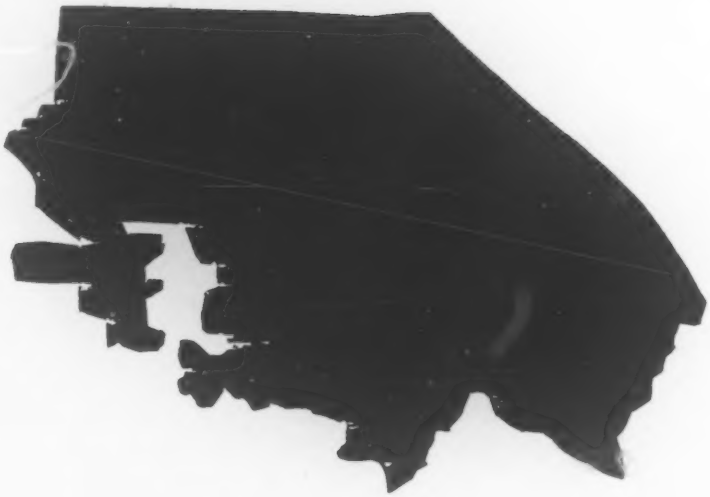
80 CONGRESSIONAL DISTRICT 38 EXHIBIT D, PAGE 38 OF 45

CALIFORNIA AB2X



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CONGRESSIONAL DISTRICT 39 EXHIBIT D, PAGE 39 OF 45

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CONGRESSIONAL DISTRICT 40 EXHIBIT D, PAGE 40 OF 45

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CONGRESSIONAL DISTRICT 41 EXCEPTION D, PAGE 41 OF 95

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84 CONGRESSIONAL DISTRICT 42 EXHIBIT D, PAGE 42 OF 45

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CONGRESSIONAL DISTRICT 43

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CONGRESSIONAL DISTRICT 44 EXHIBIT D, PAGE 44 OF 45

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CONGRESSIONAL DISTRICT 45

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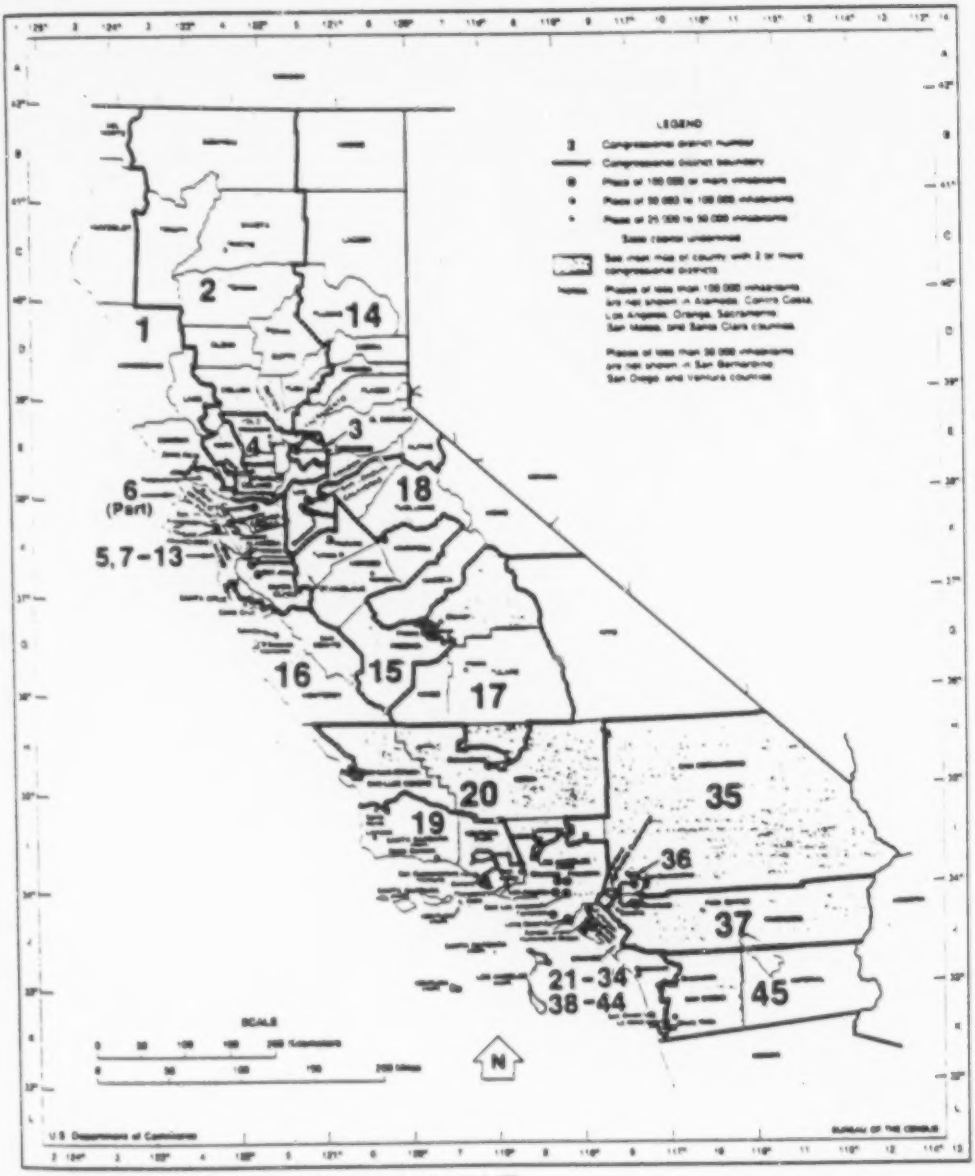
EXHIBIT E

Congressional Districts, Counties, and Selected Places



8–74 CALIFORNIA

CONGRESSIONAL DISTRICTS, TRACTS, COUNTIES

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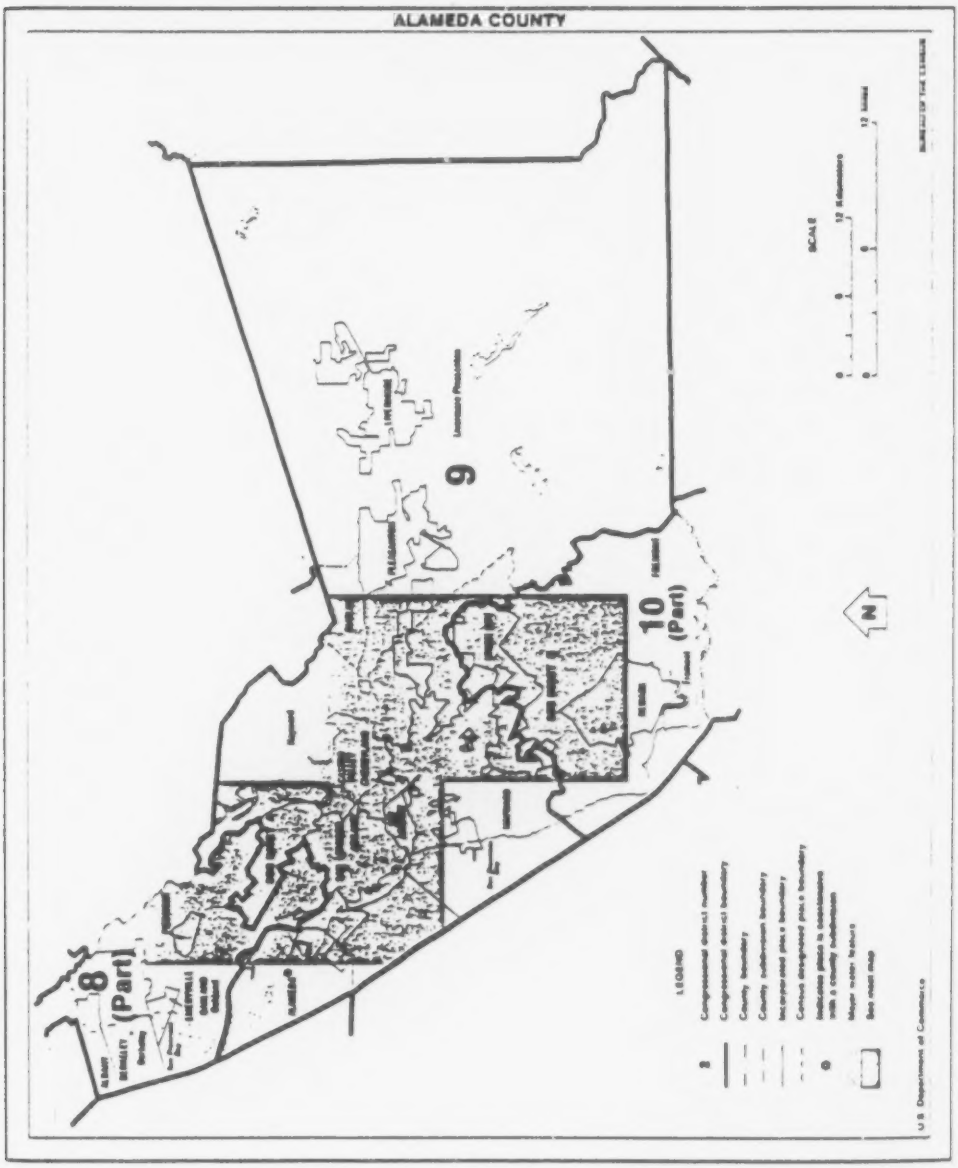
Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

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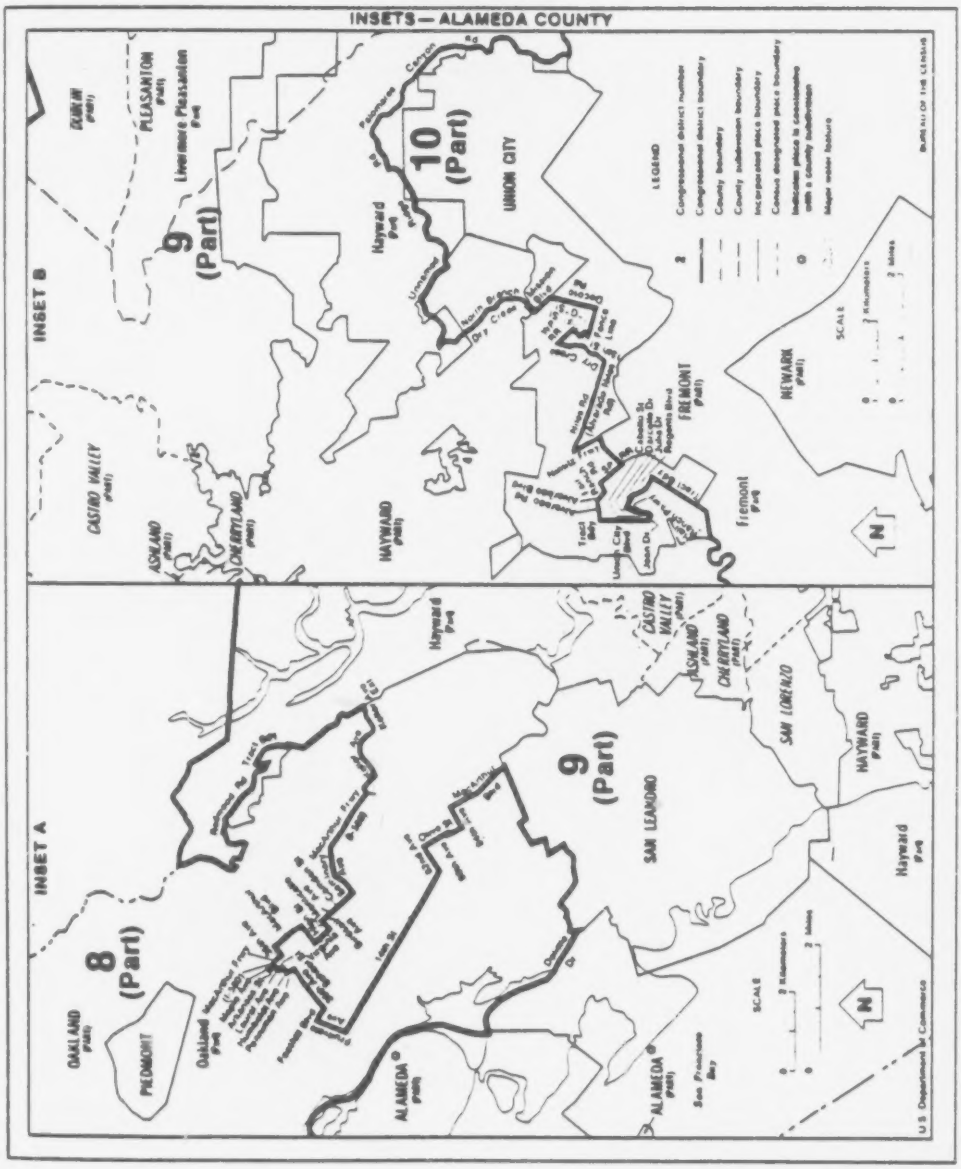
Congressional Districts, Counties, and Selected Places



Congressional districts established January 2 1983 as other boundaries are as of January 1 1980

E-76 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

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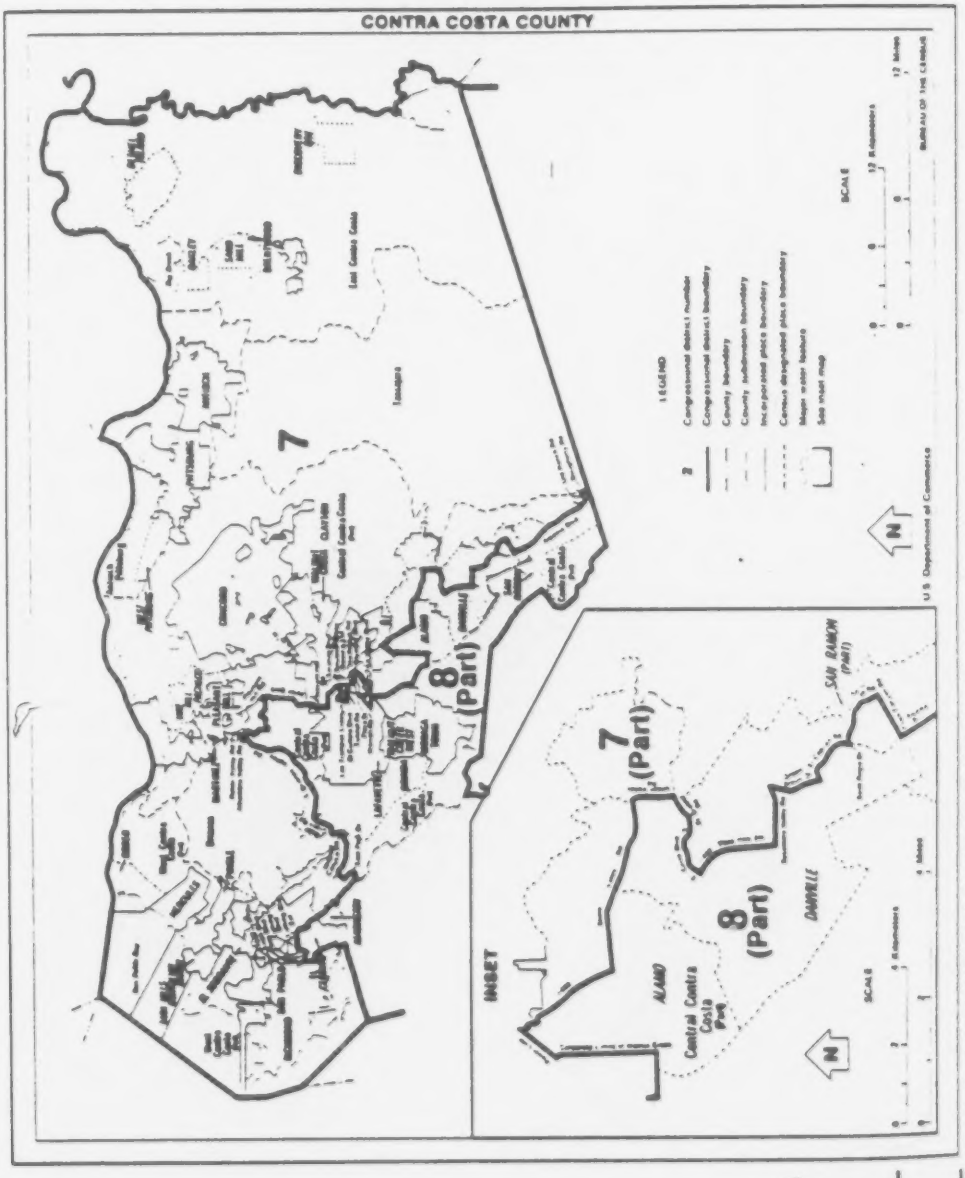
Congressional Districts, Counties, and Selected Places



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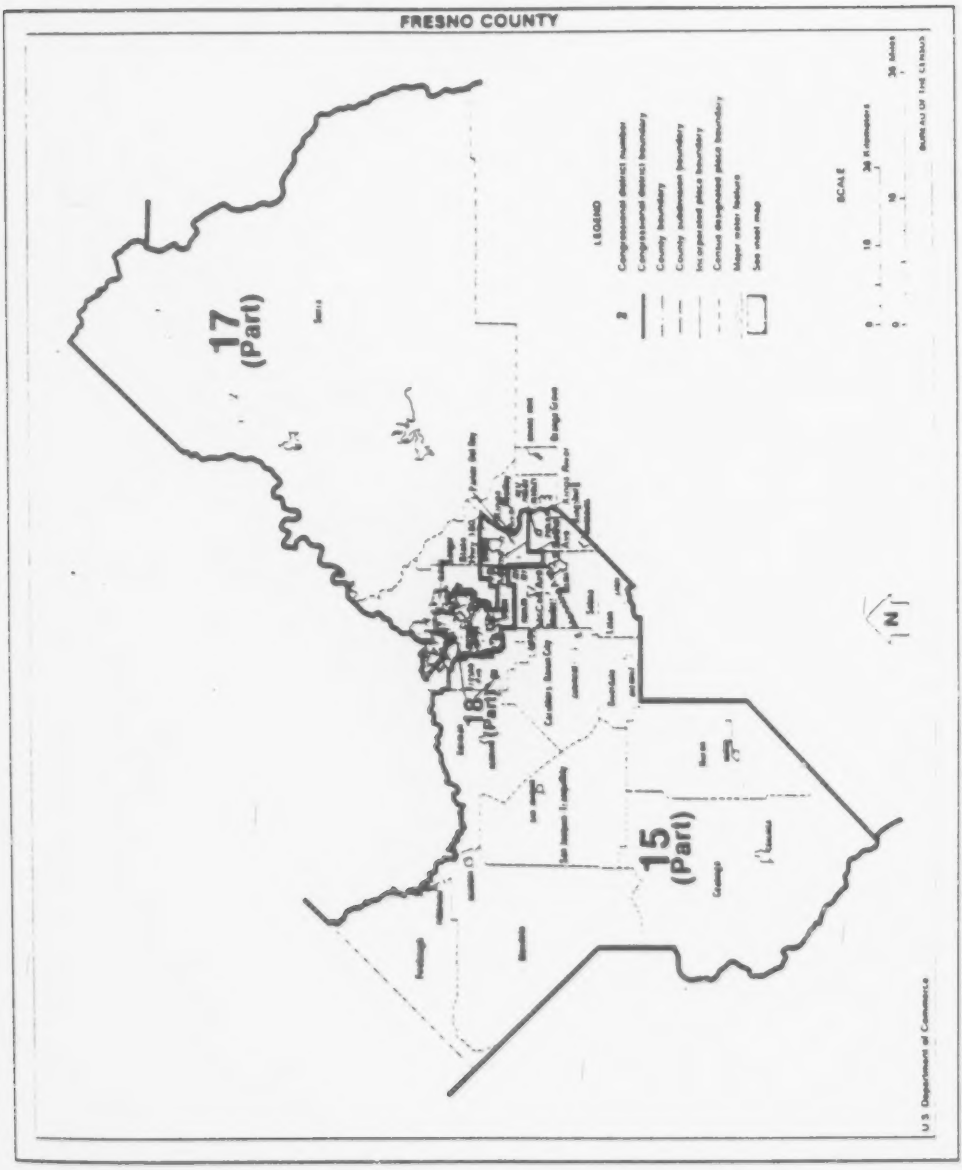

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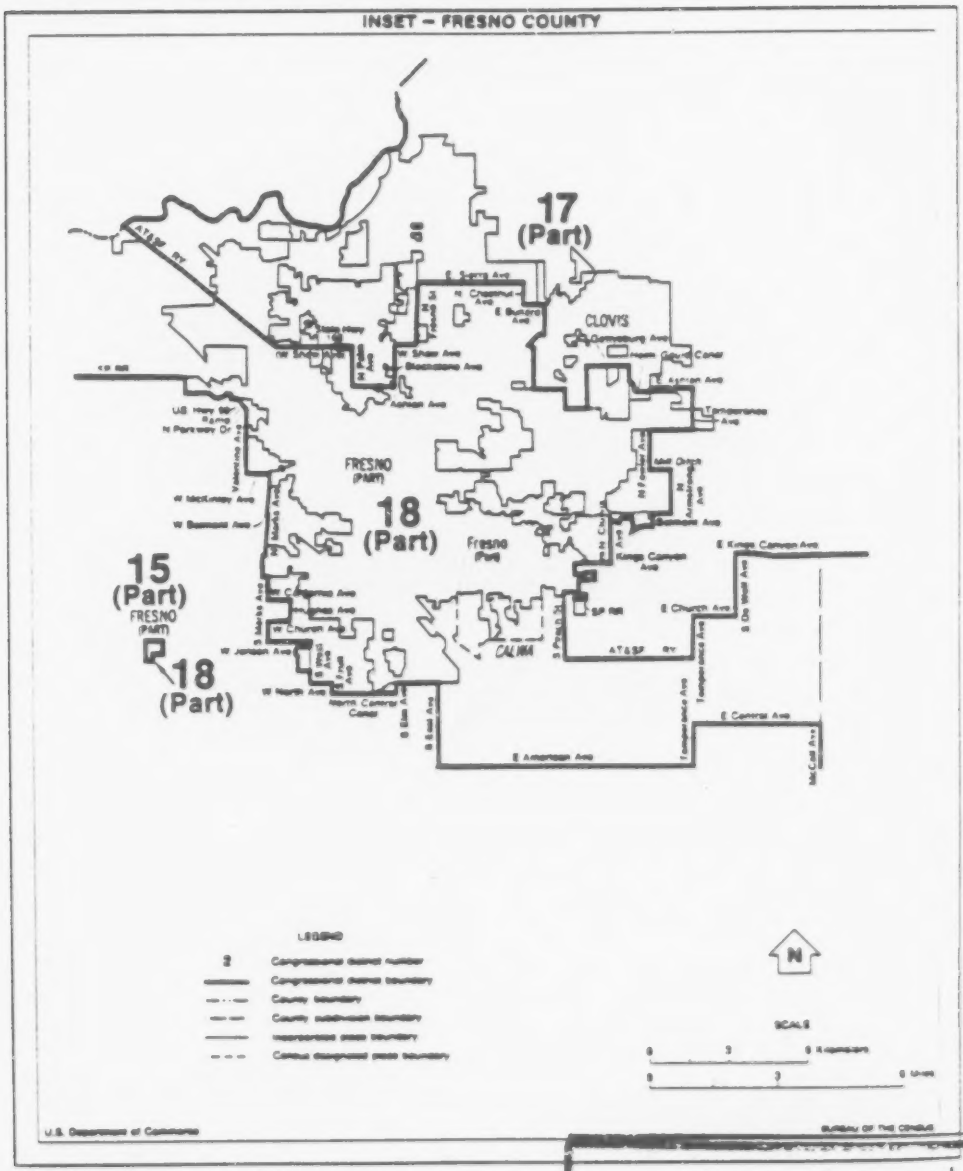
Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA E-79

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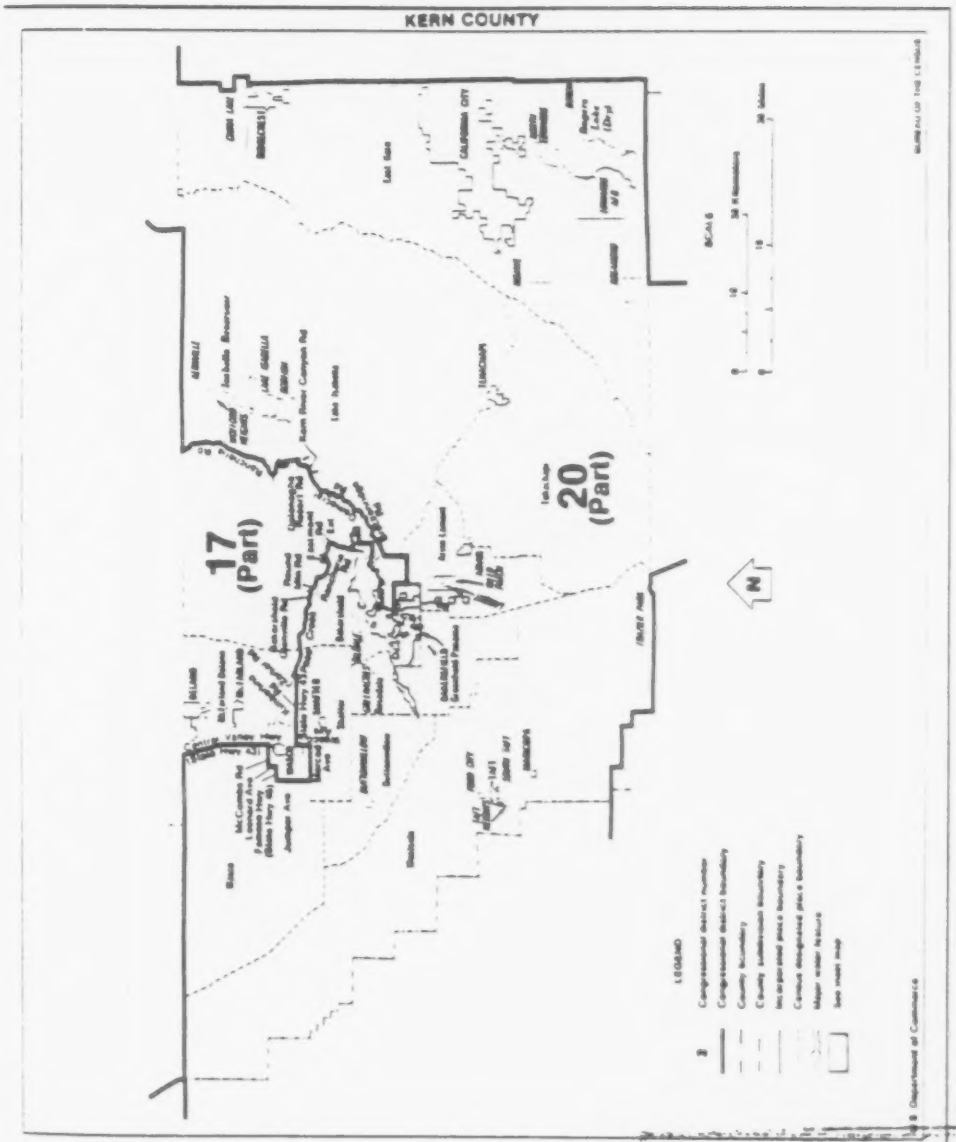
Congressional Disticts, Counties, and Selected Places



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CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

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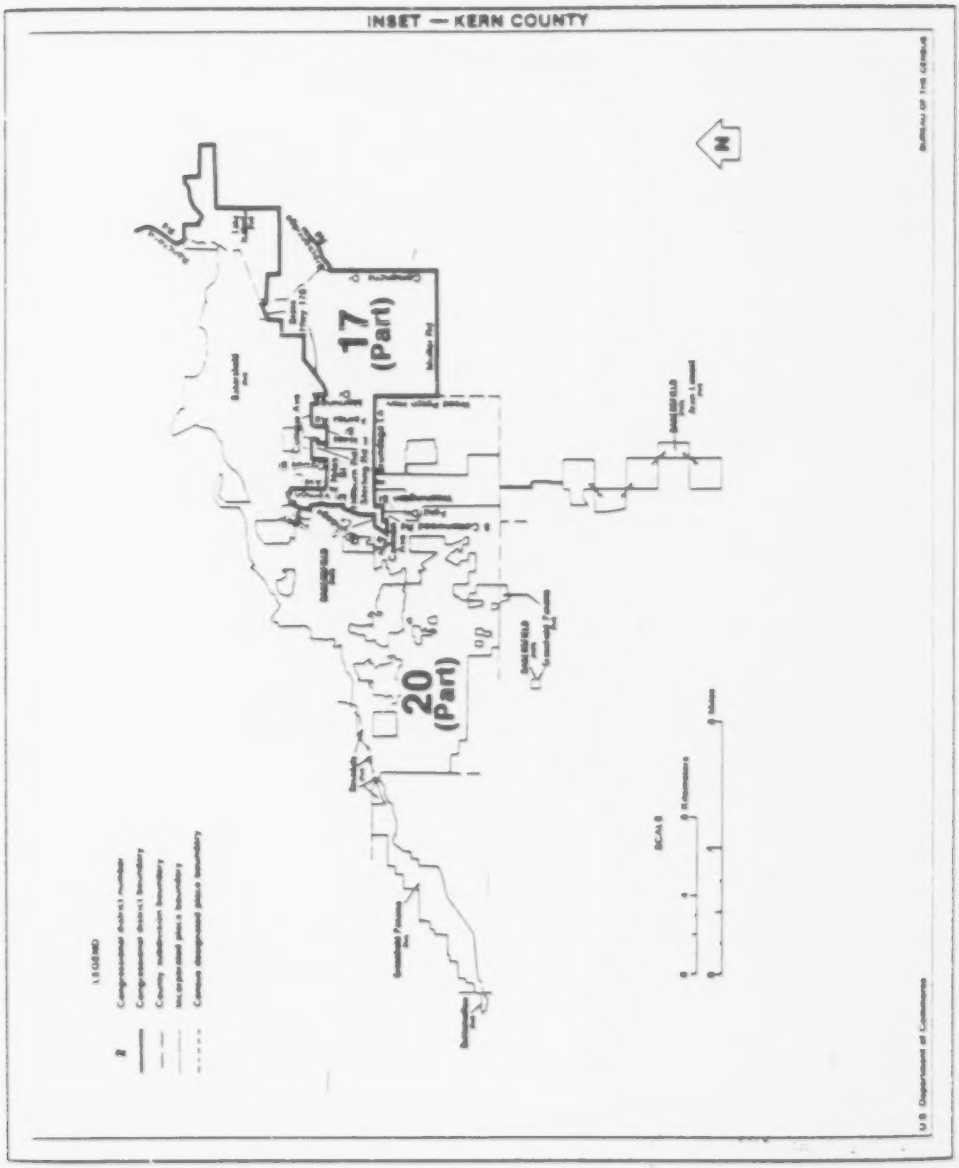
Congressional Disticts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

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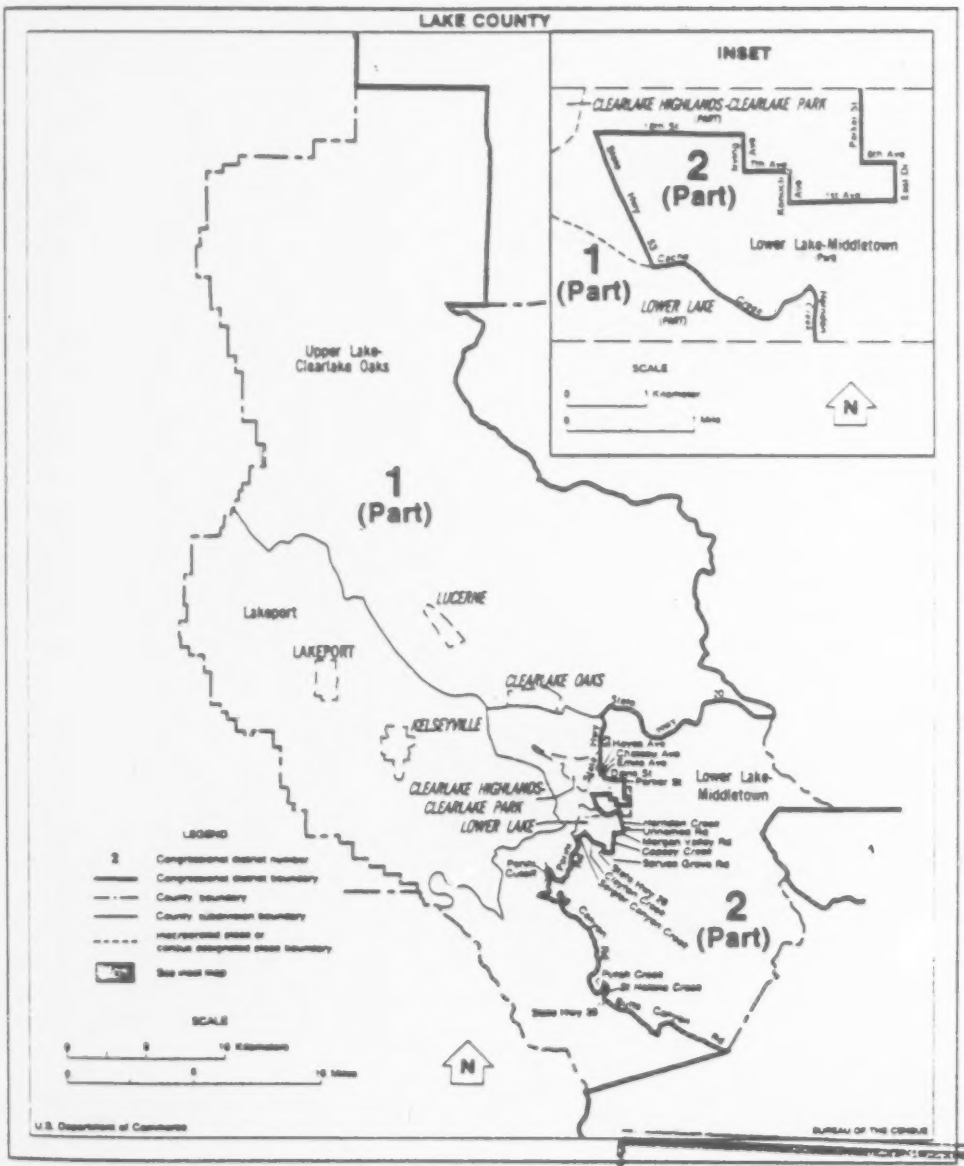
Congressional Districts, Counties, and Selected Places



Congressional districts established January 3, 1983; all other boundaries are as of January 1, 1983.

EXHIBIT E PAGE 9 OF 44

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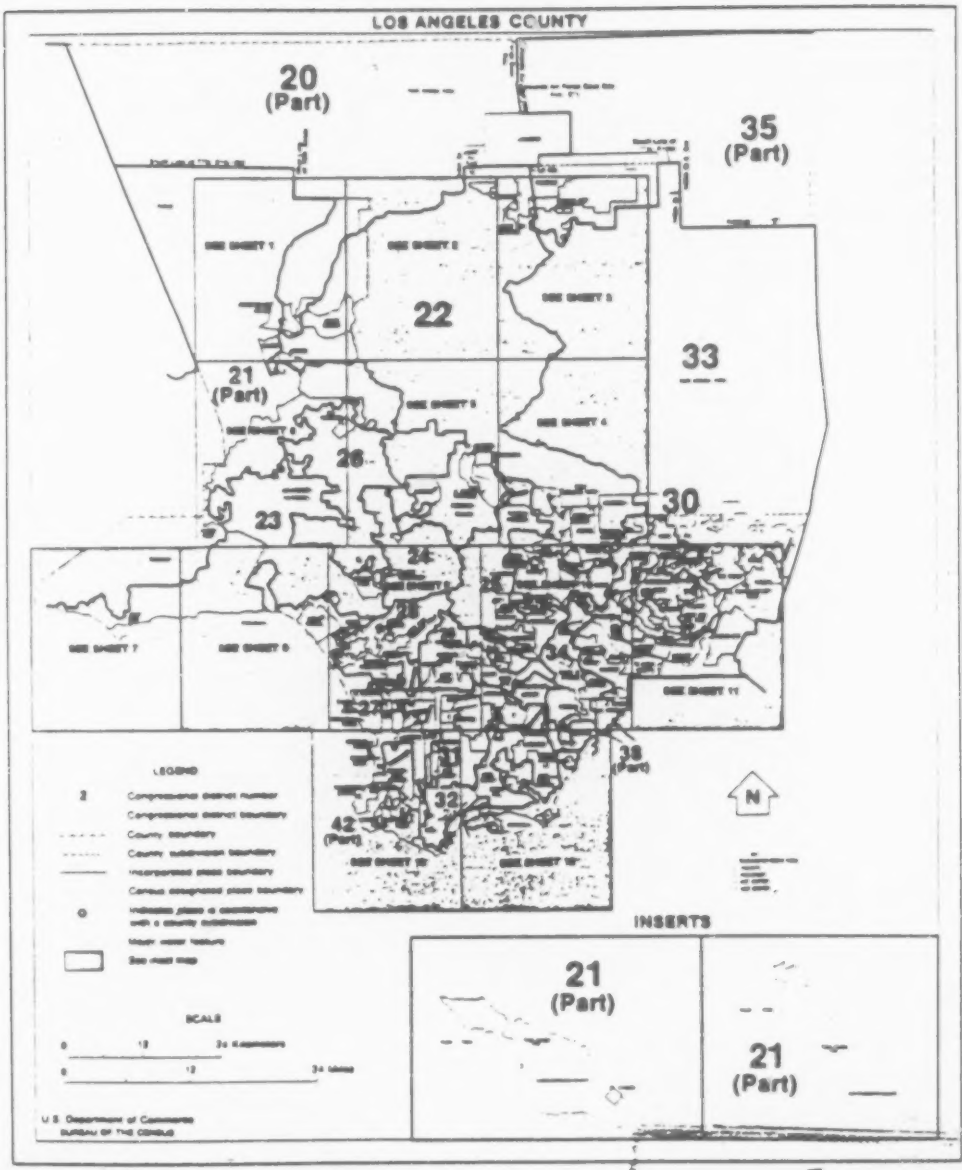
Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

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CALIFORNIA 6-83

Congressional Districts, Counties, and Selected Places

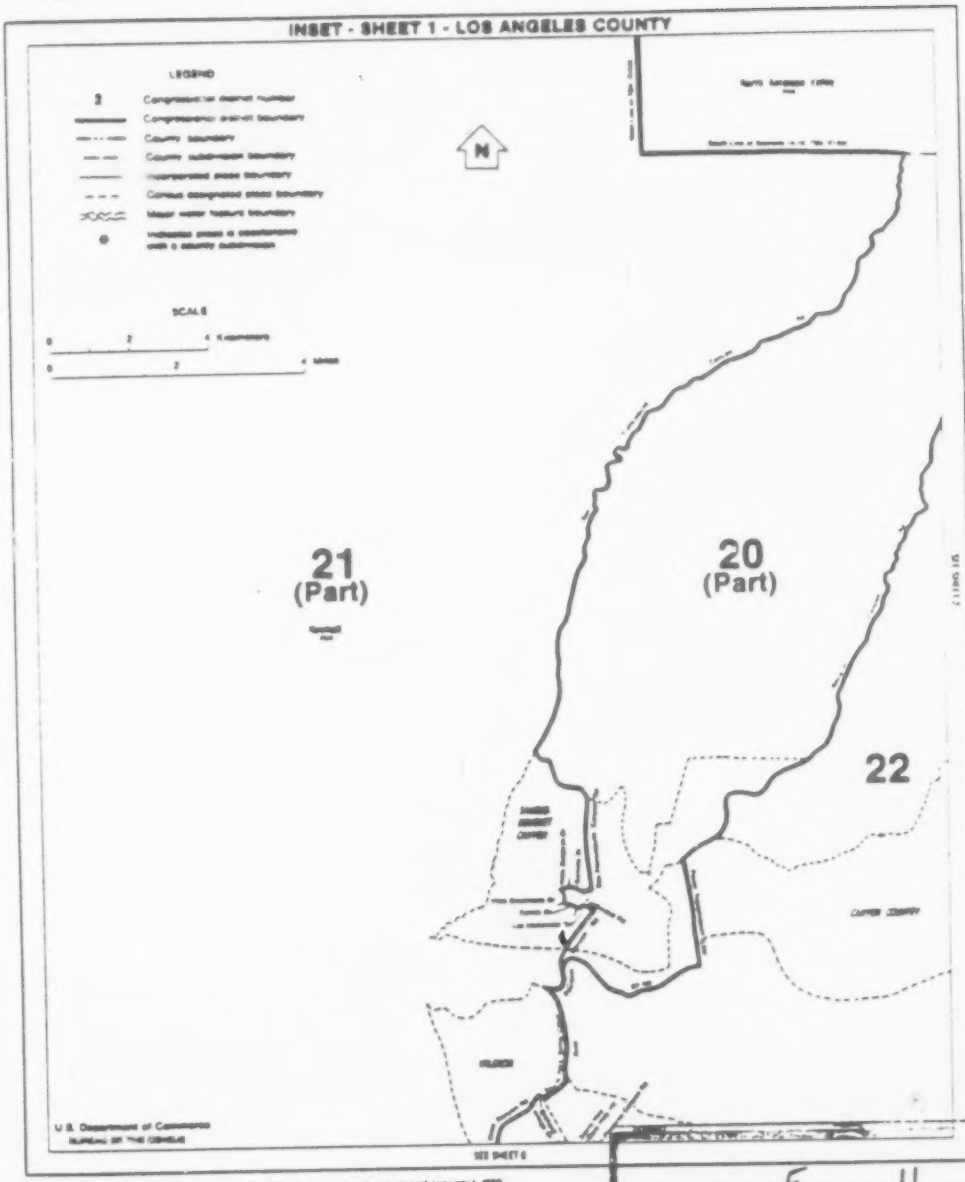

EXHIBIT E, PAGE 11 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

6-84 CALIFORNIA

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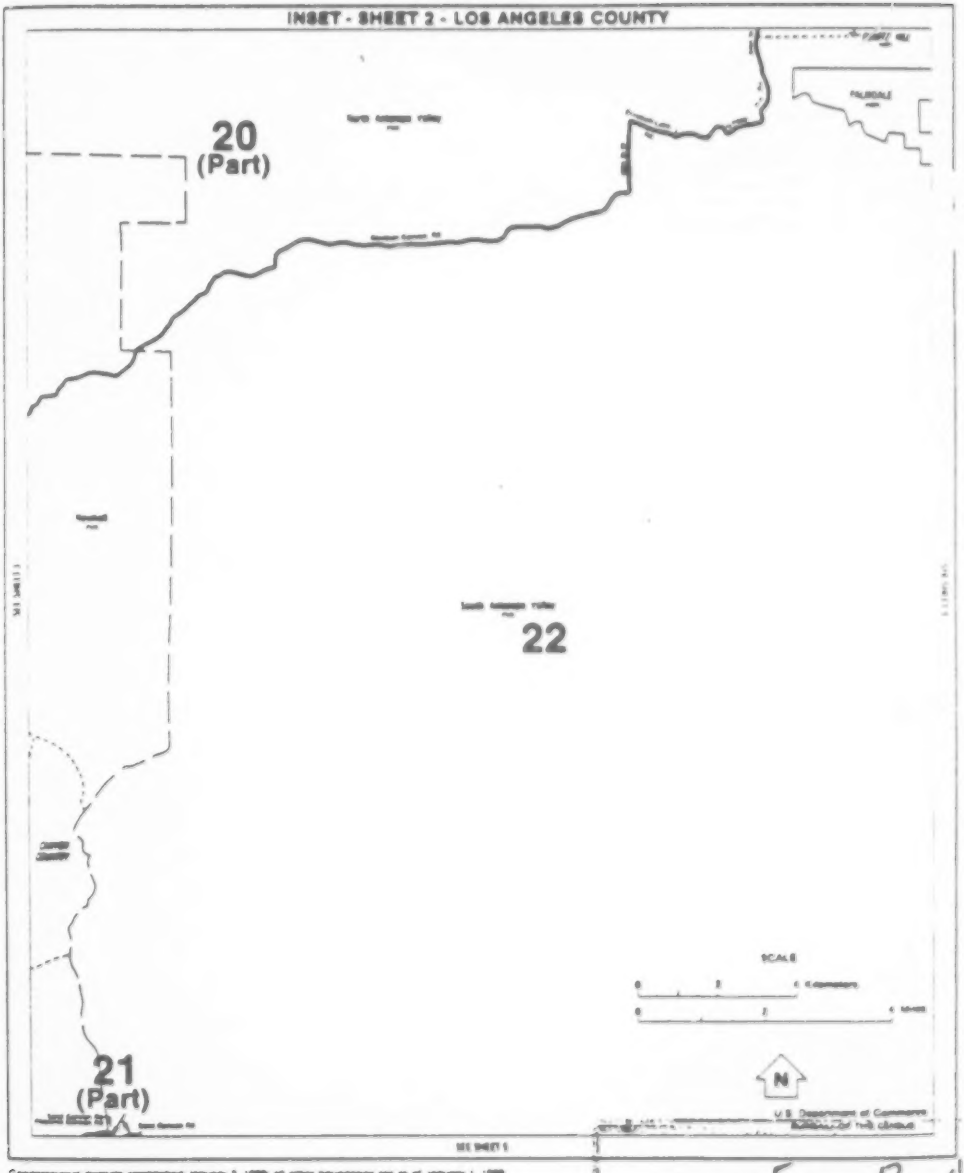
Congressional Districts, Counties, and Selected Places



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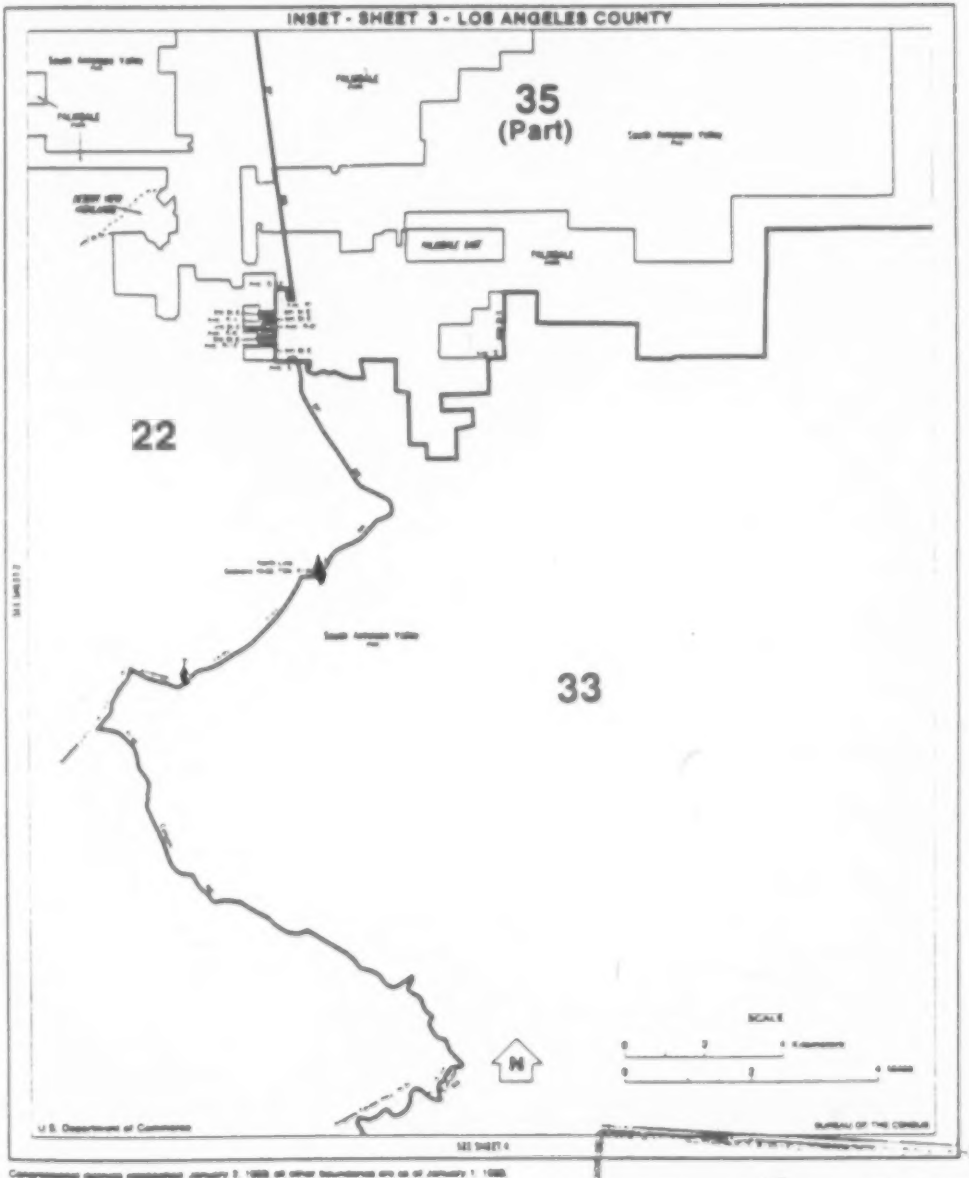
CALIFORNIA 6-85

Congressional Districts, Counties, and Selected Places



Congressional districts established January 3, 1983, or other boundaries are as of January 1, 1983.

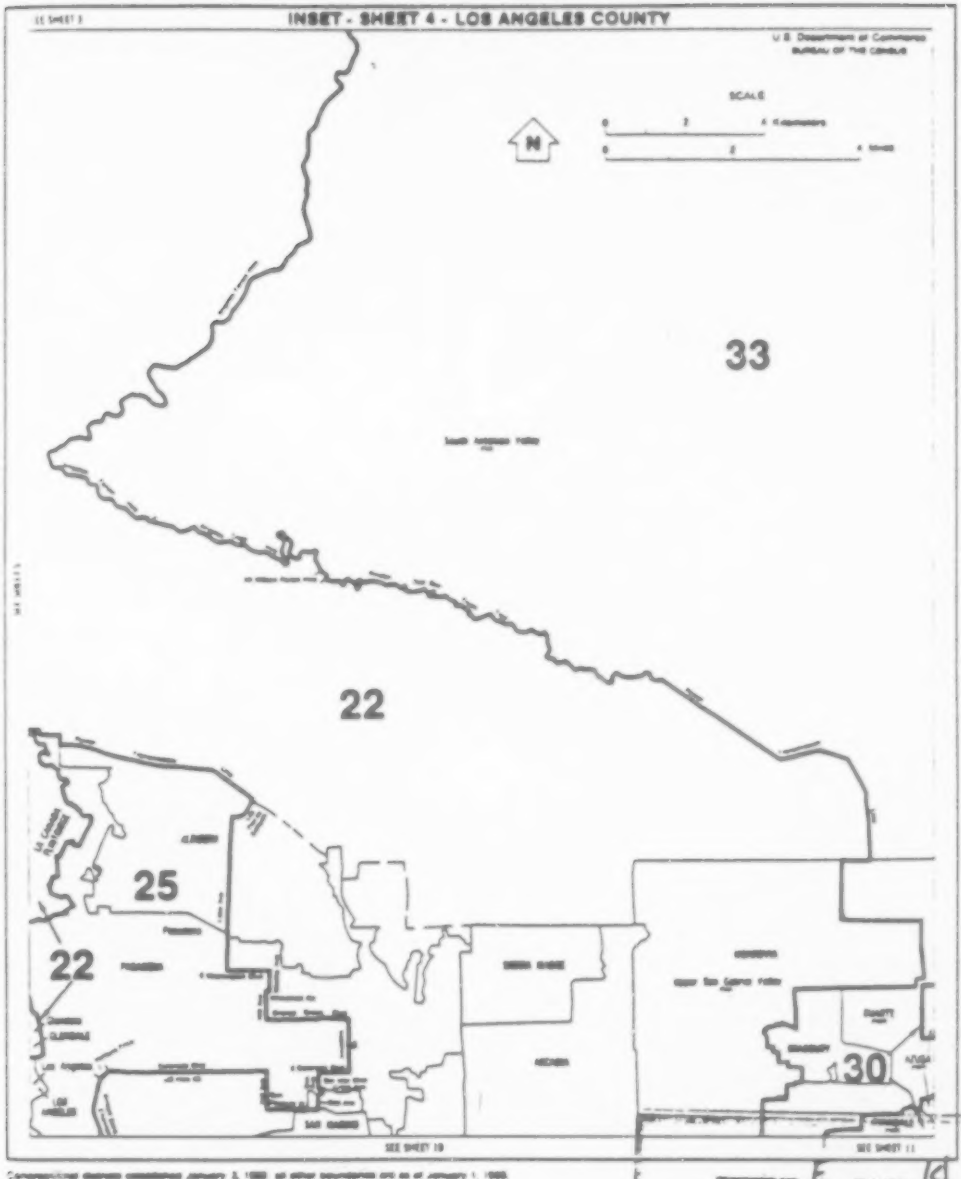
5—06 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

EXHIBIT E PAGE 13 OF 94

100

Congressional Districts, Counties, and Selected Places



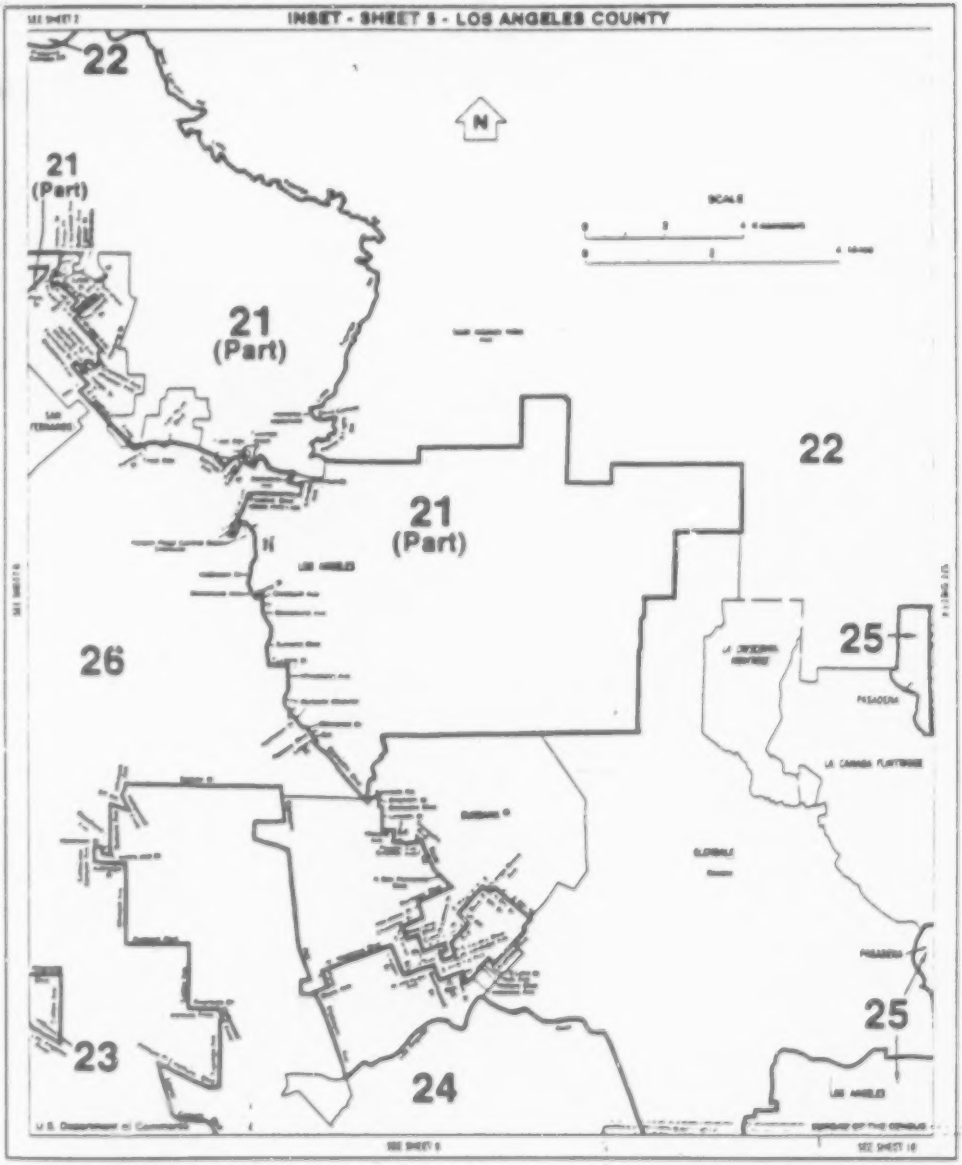
CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

EXHIBIT E, PAGE 10

CALIFORNIA 6-87

101

Congressional Districts, Counties, and Selected Places



Congressional districts established January 3, 1983, as other boundaries are as of January 1, 1983.

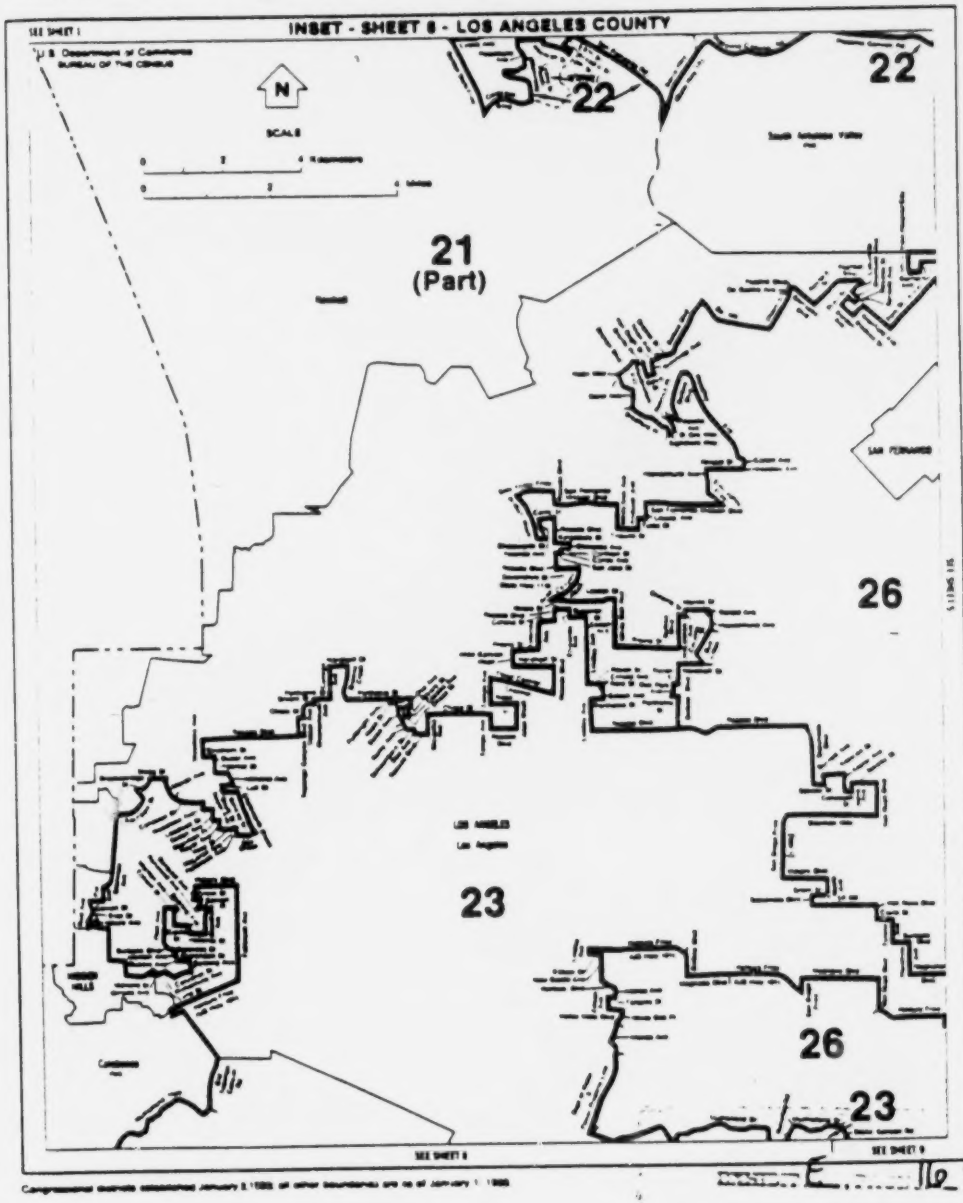
EXHIBIT E, PAGE 15 of 44

8-83 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

102

Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA 8-89

103

Congressional Districts, Counties, and Selected Places

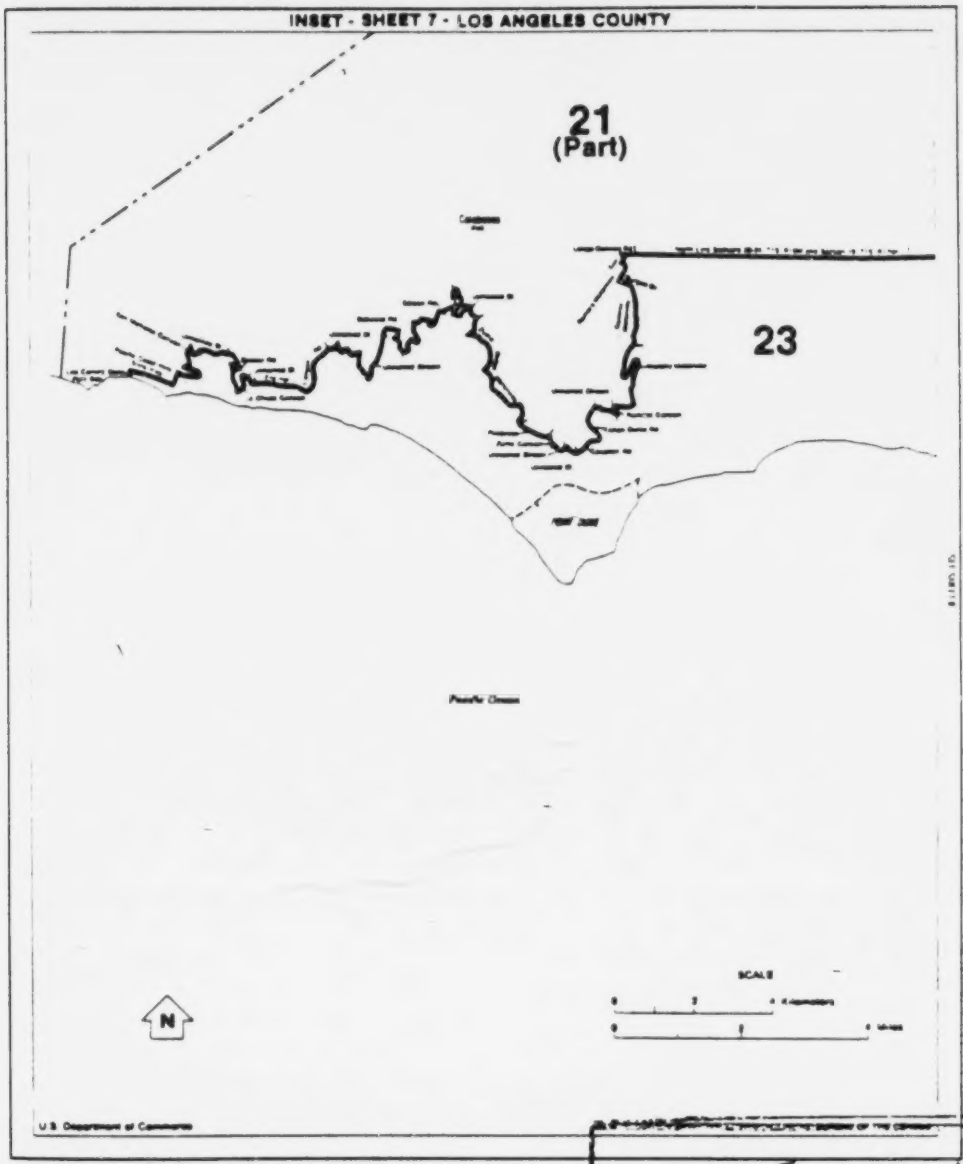


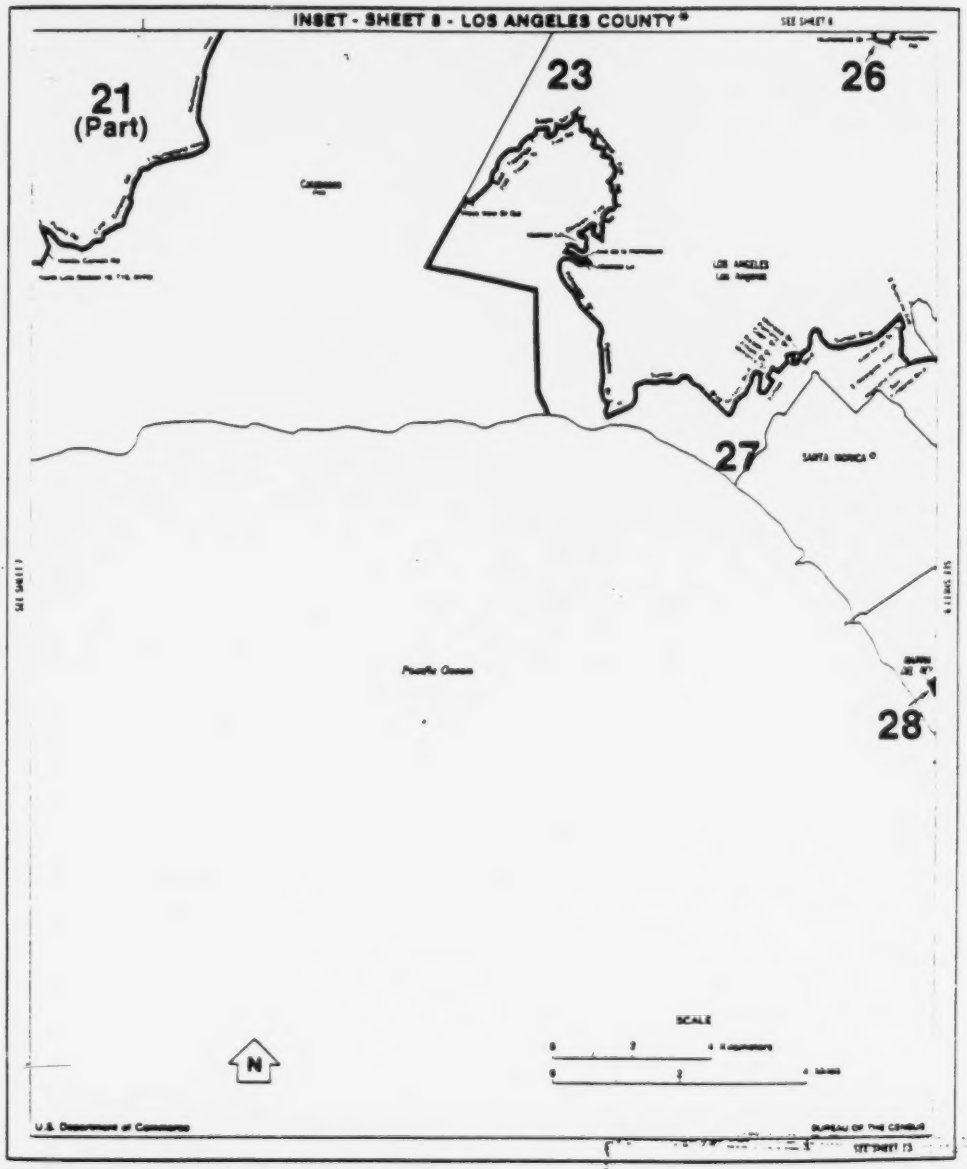
EXHIBIT E, PAGE 17 OF 49

6-90 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

104

Congressional Districts, Counties, and Selected Places



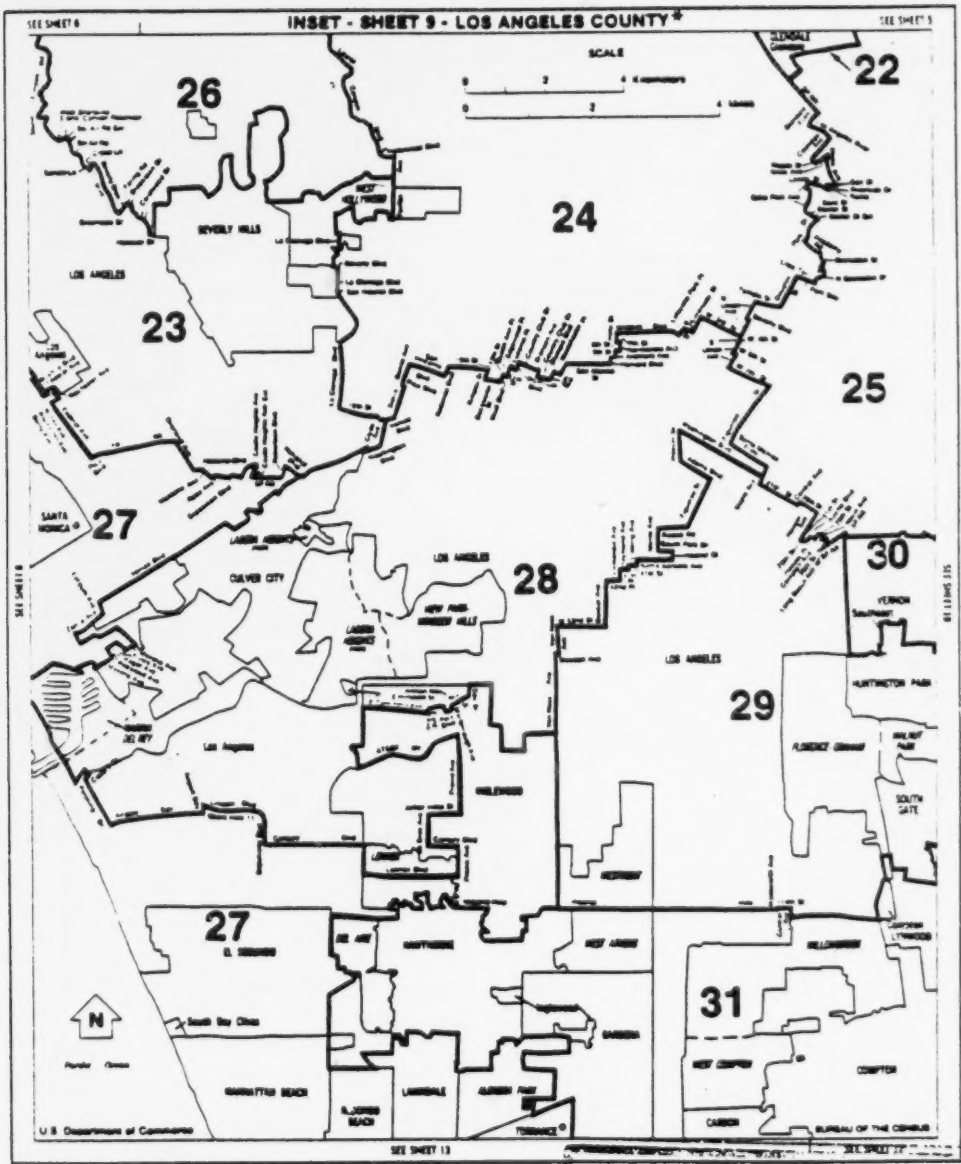
Congressional districts established January 3, 1983; all other boundaries are as of January 1, 1980.
*An enclosure description of Los Angeles county are assigned to congressional district 27

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

EXHIBIT E, PAGE 18 of 44
CALIFORNIA 8-91

105

Congressional Districts, Counties, and Selected Places



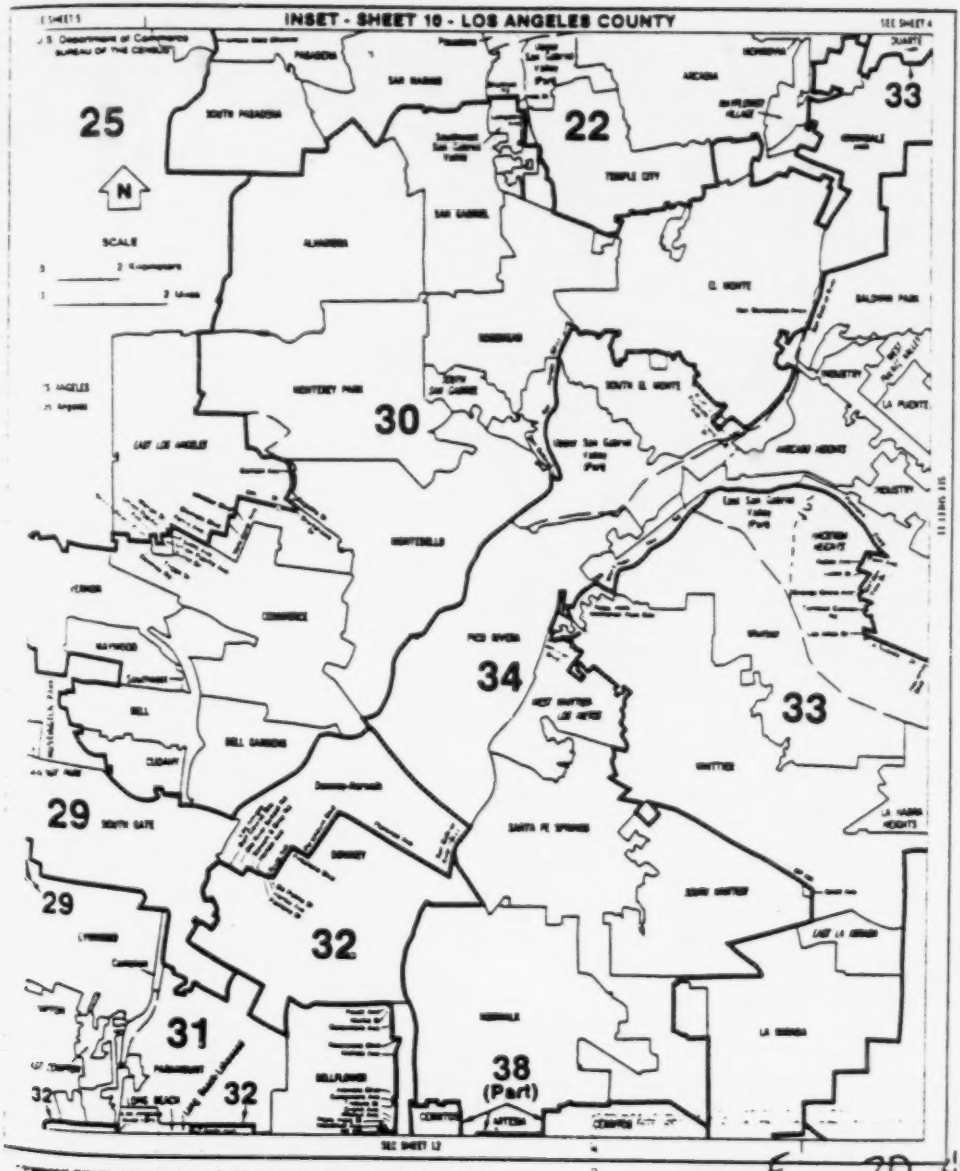
Congressional districts established January 3, 1983; all other boundaries are as of January 1, 1980.
*All unassigned population in Los Angeles county are assigned to congressional district 27

8-82 CALIFORNIA

EXHIBIT E PAGE 19 OF 44
CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

106

Congressional Districts, Counties, and Selected Places



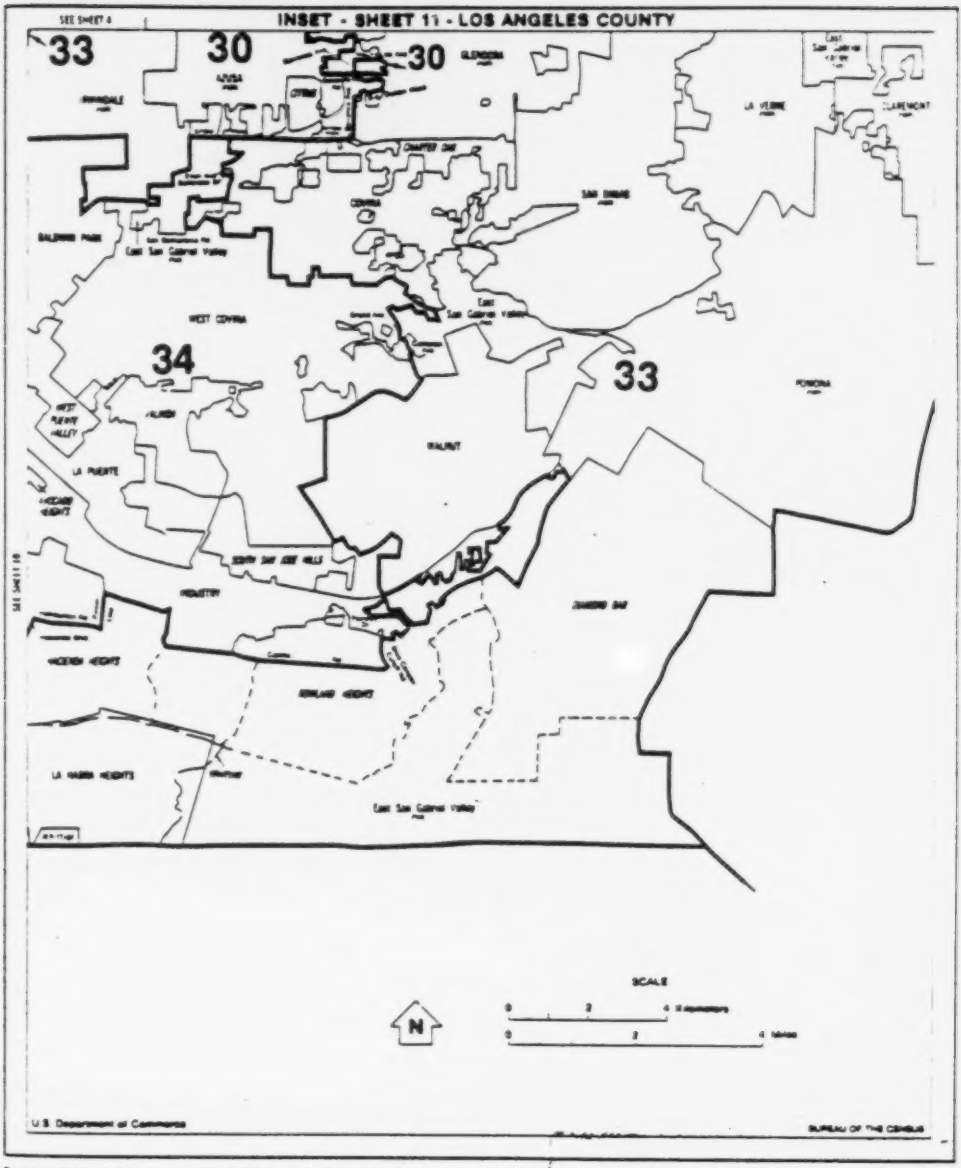
CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

107

EXHIBIT E, PAGE 20 OF 44

CALIFORNIA 6-83

Congressional Districts, Counties, and Selected Places



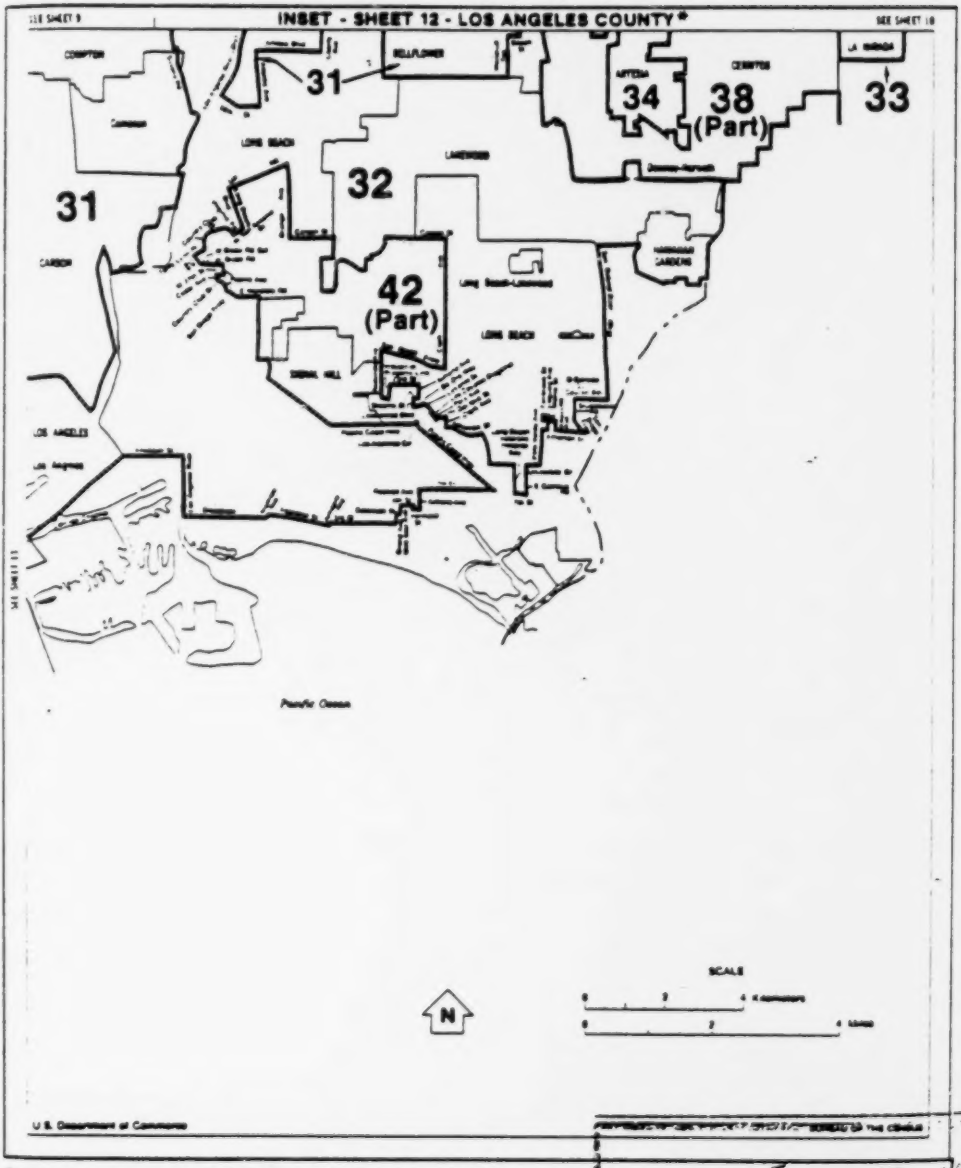
E-21-44

8-94 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

108

Congressional Districts, Counties, and Selected Places



U.S. Department of Commerce

*All precincts assignment in Los Angeles county are assigned to congressional district 27

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA 6-95

EXHIBIT E, PAGE 22 OF 44

109

Congressional Districts, Counties, and Selected Places

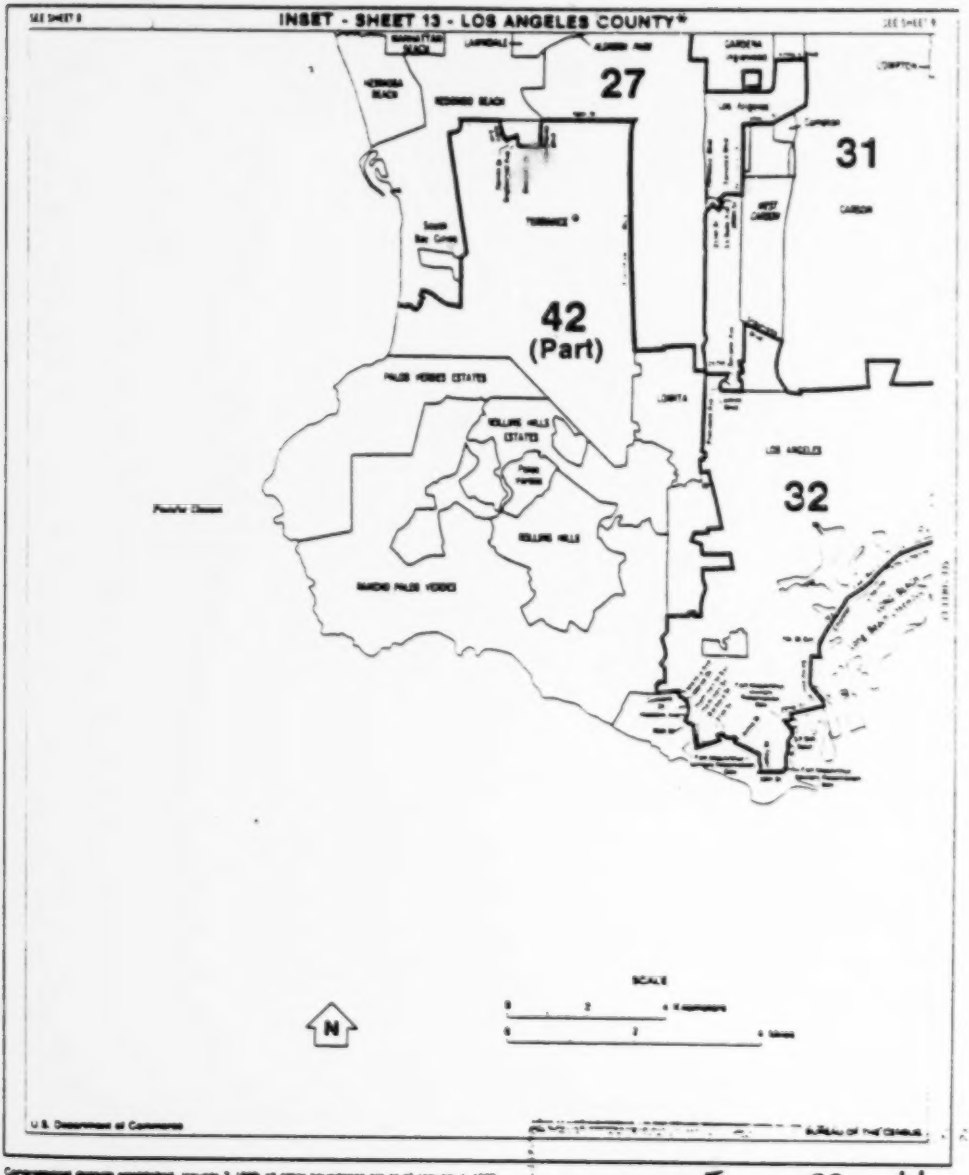


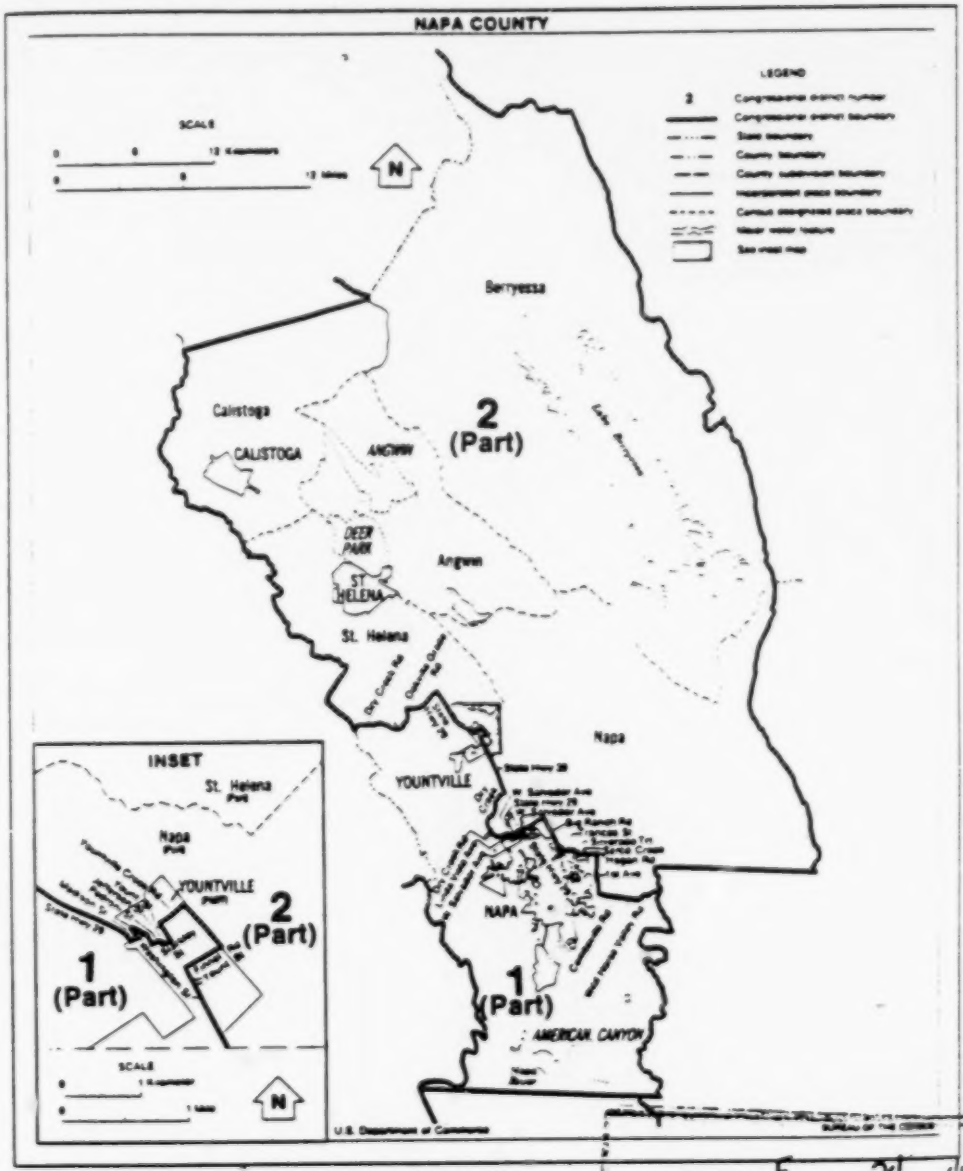
EXHIBIT E, PAGE 23 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

8-98 CALIFORNIA

110

Congressional Districts, Counties, and Selected Places



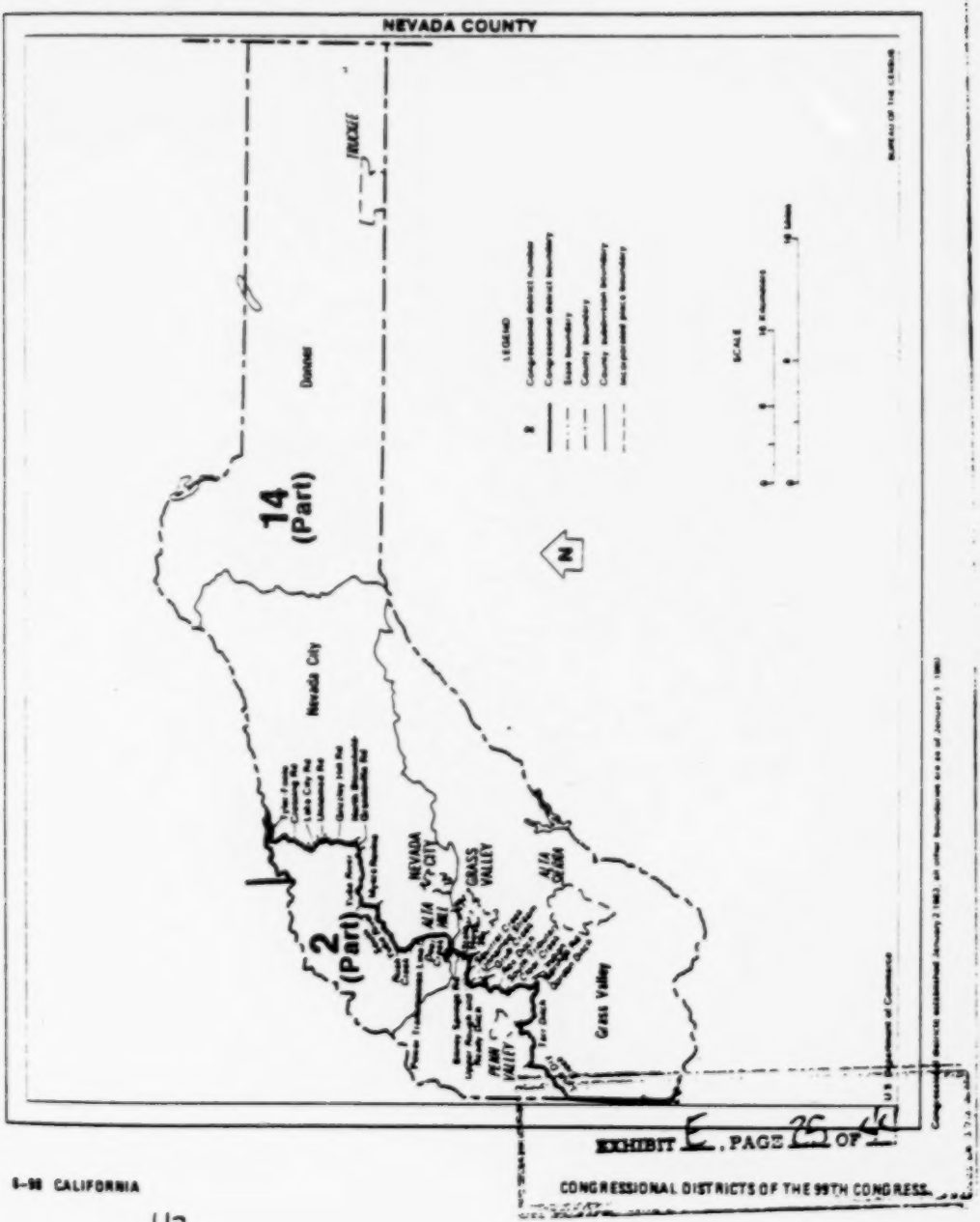
CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA 8-87

EXHIBIT E, PAGE 29 OF 44

111

Congressional Districts, Counties, and Selected Places



112

Congressional Disticts, Counties, and Selected Places

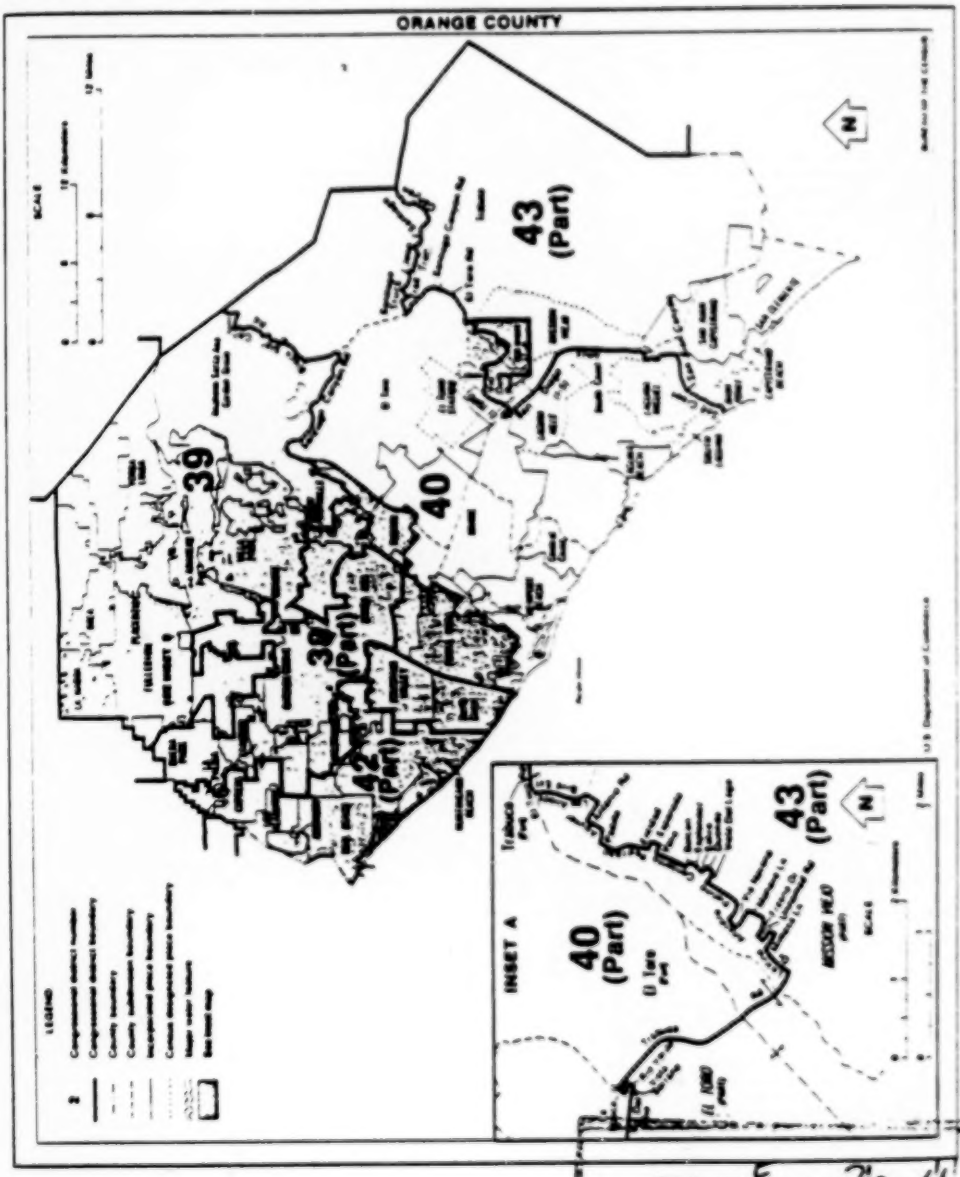


EXHIBIT E, PAGE 216 OF 49

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

CALIFORNIA 8-81

113

Congressional Districts, Counties, and Selected Places

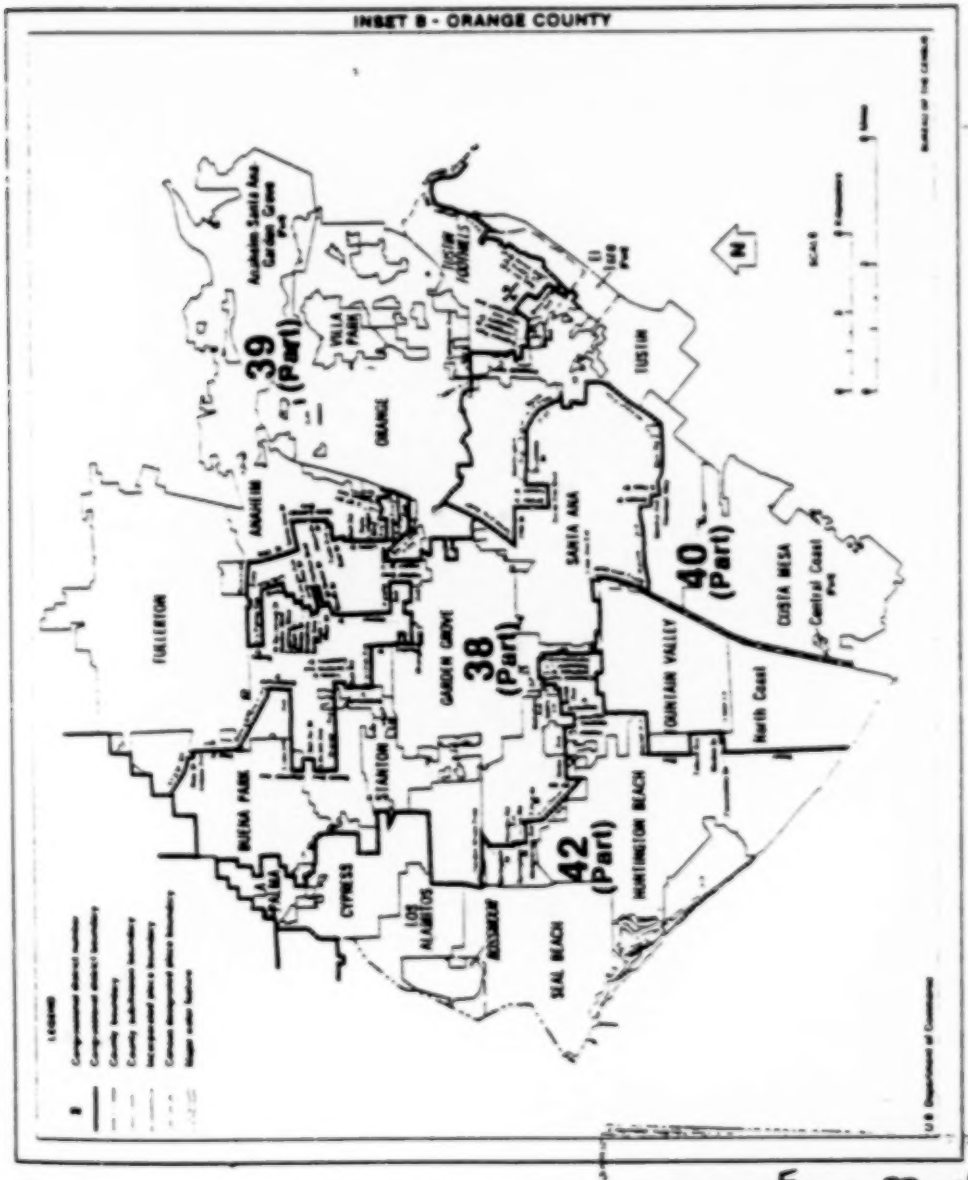


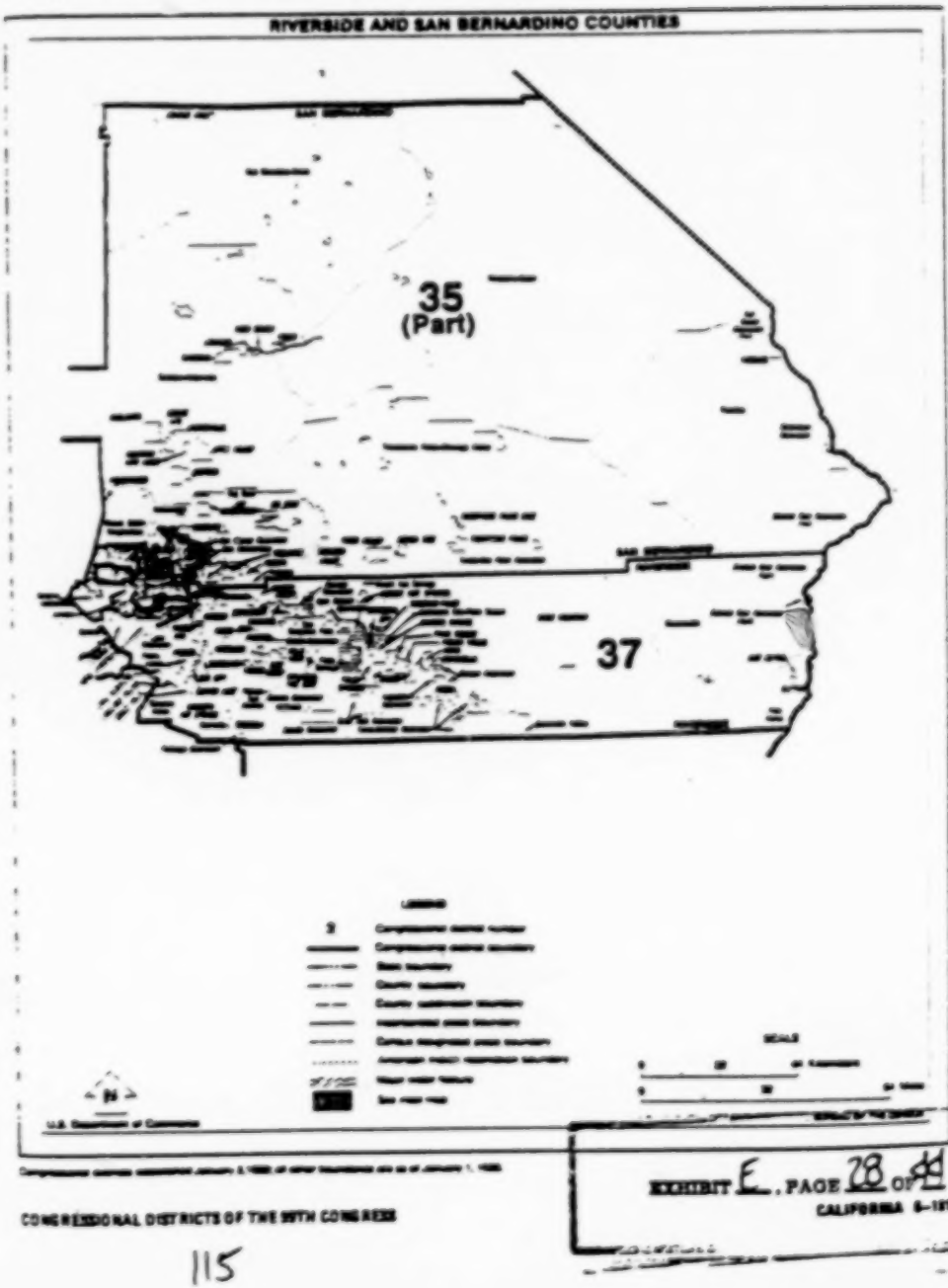
EXHIBIT E, PAGE 27 OF 44

8-100 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

114

Congressional Districts, Counties, and Selected Places



Congressional Districts, Counties, and Selected Places

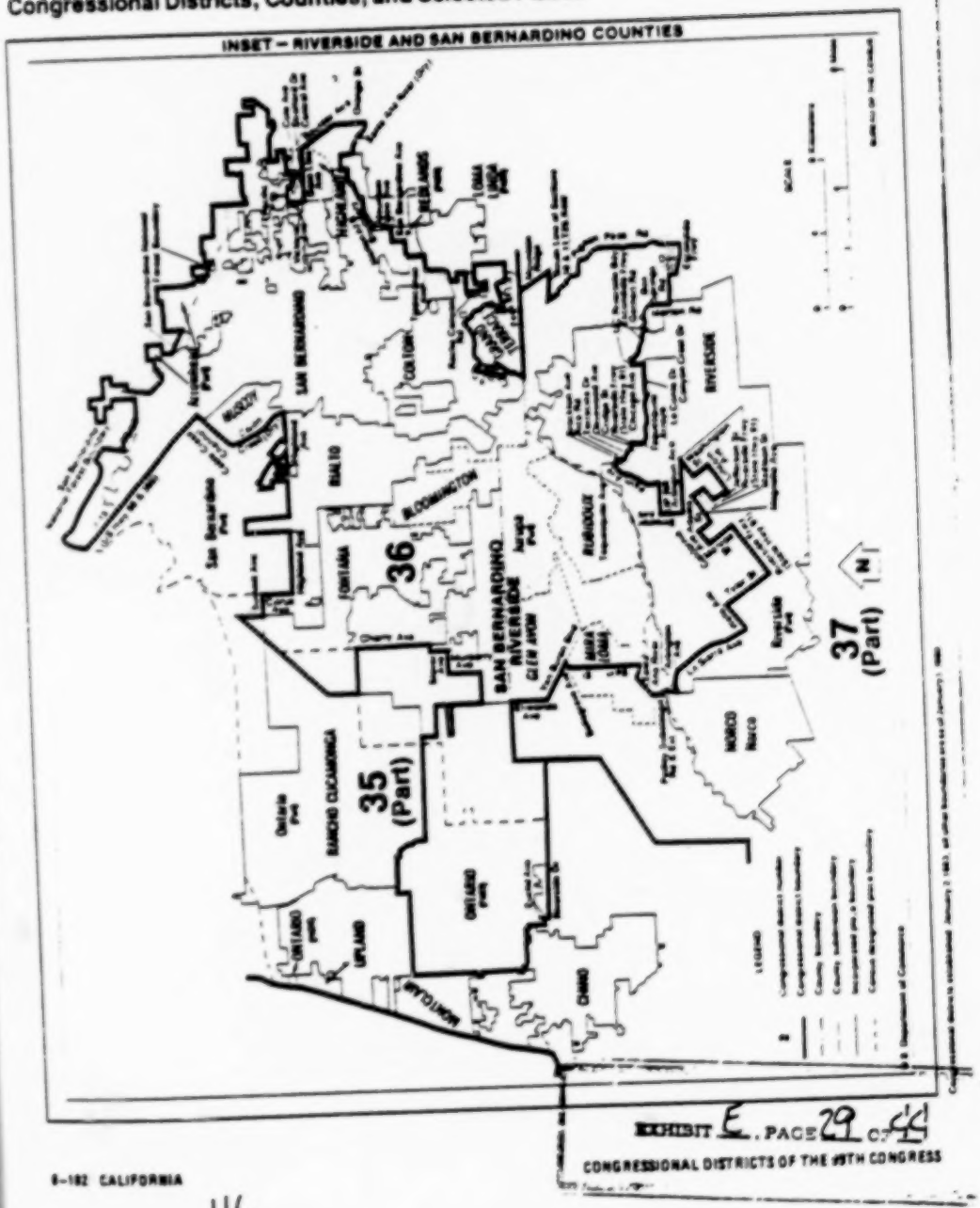


EXHIBIT E, PAGE 29 OF 44

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

8–182 CALIFORNIA

116

Congressional Districts, Counties, and Selected Places

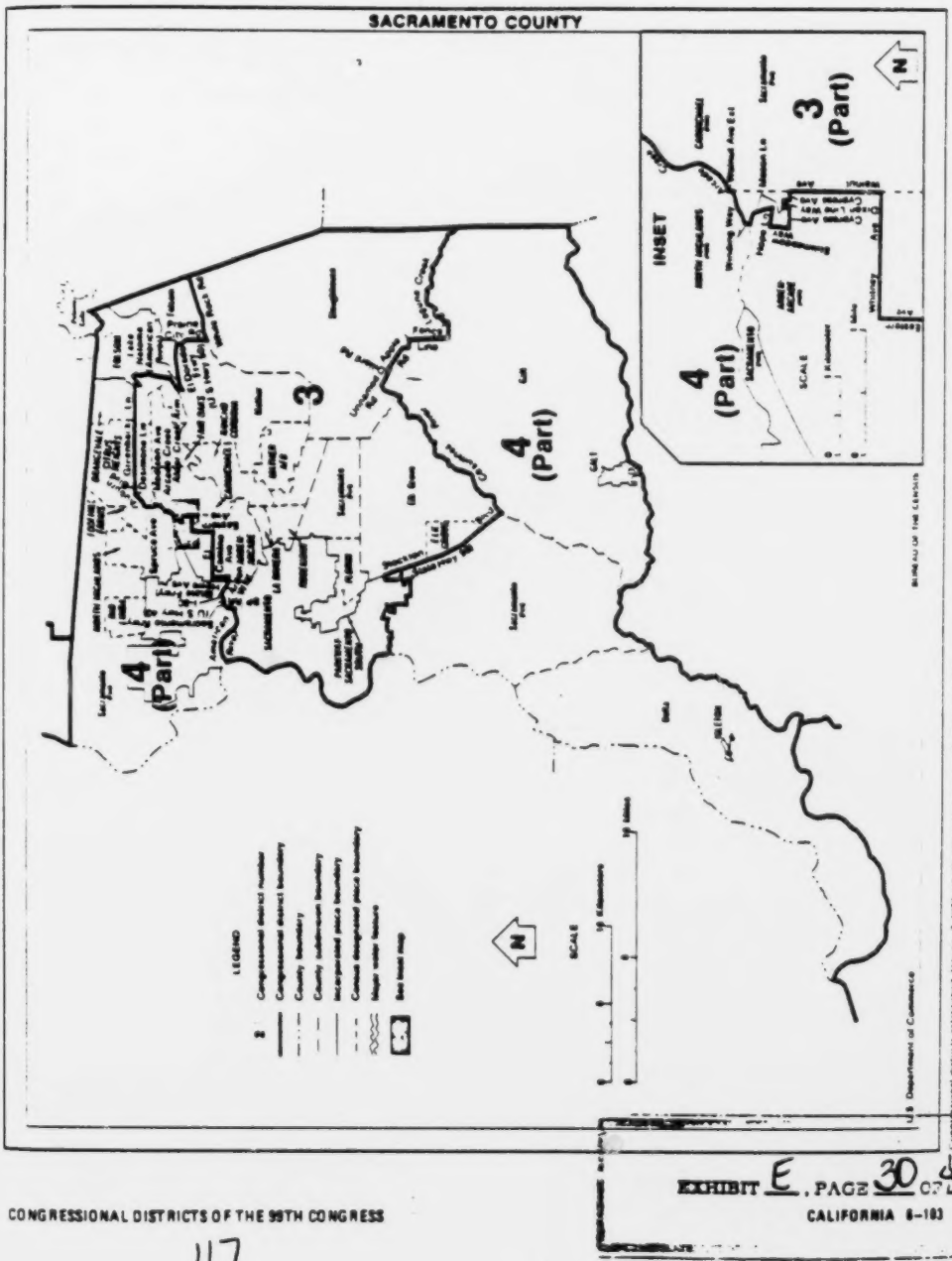


EXHIBIT E, PAGE 30 OF 42

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA 6-103

117

Congressional Disticts, Counties, and Selected Places

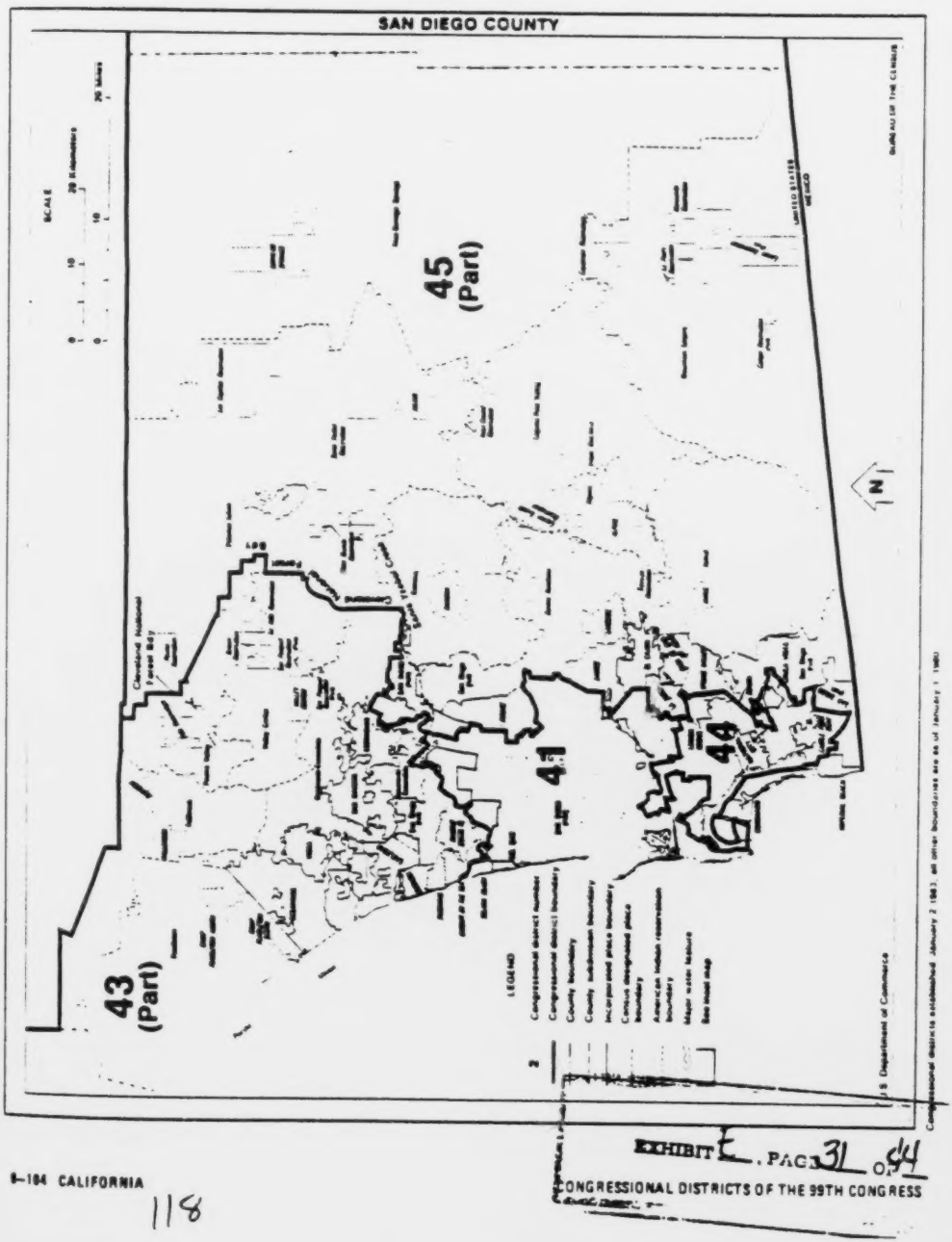
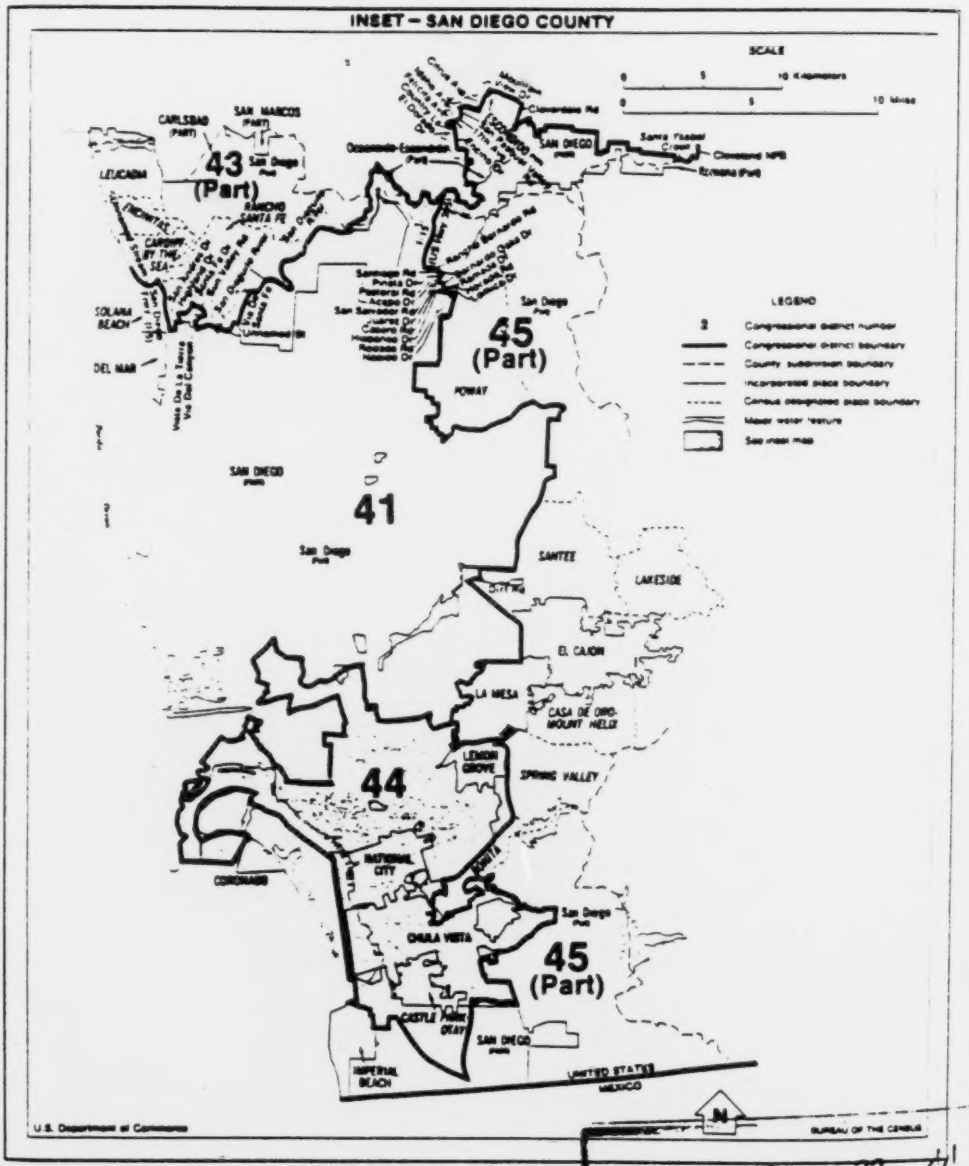


EXHIBIT E, PAGE 31 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

Congressional Districts, Counties, and Selected Places



Congressional districts established January 2, 1982; all other boundaries are as of January 1, 1980

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

CALIFORNIA S–105

EXHIBIT E, PAGE 32 OF 44

119

Congressional Districts, Counties, and Selected Places

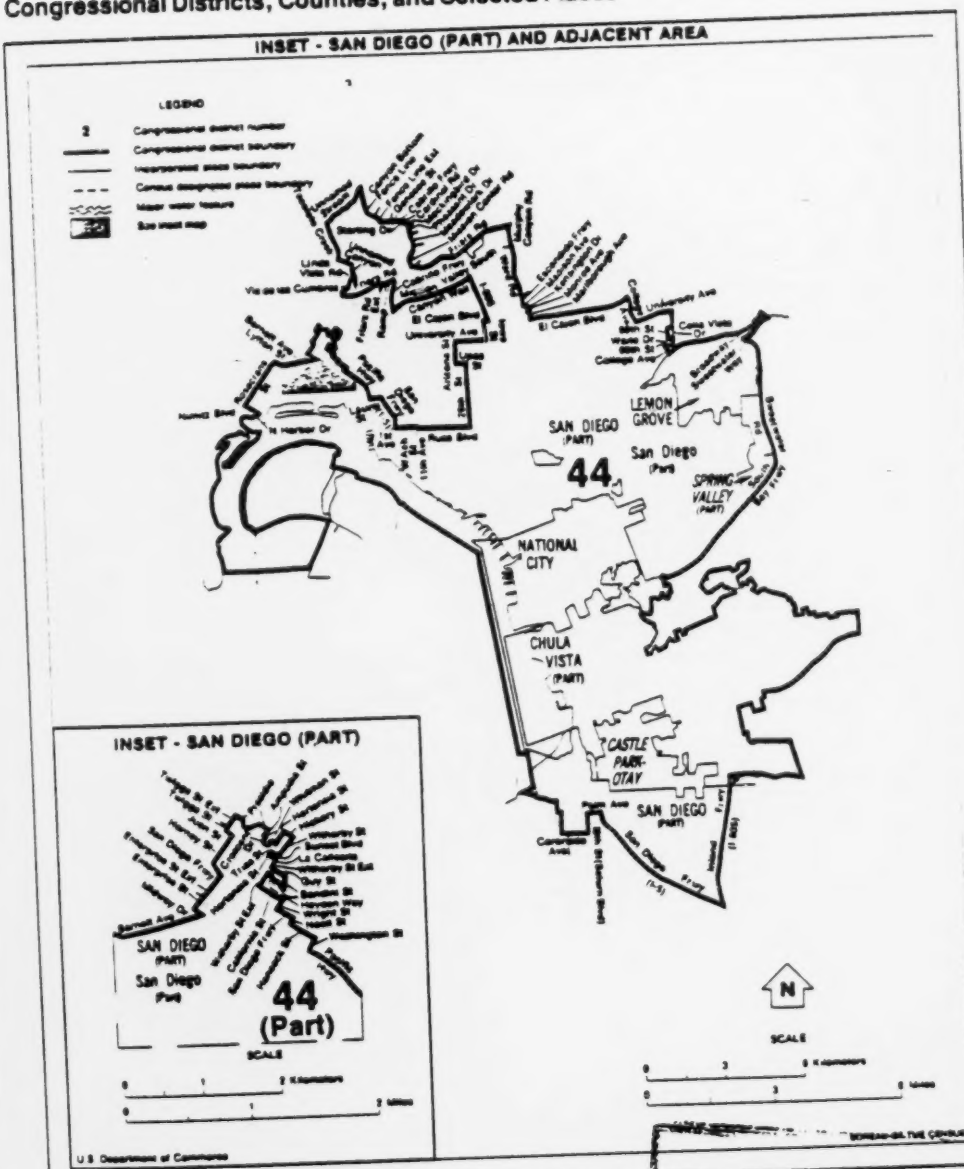


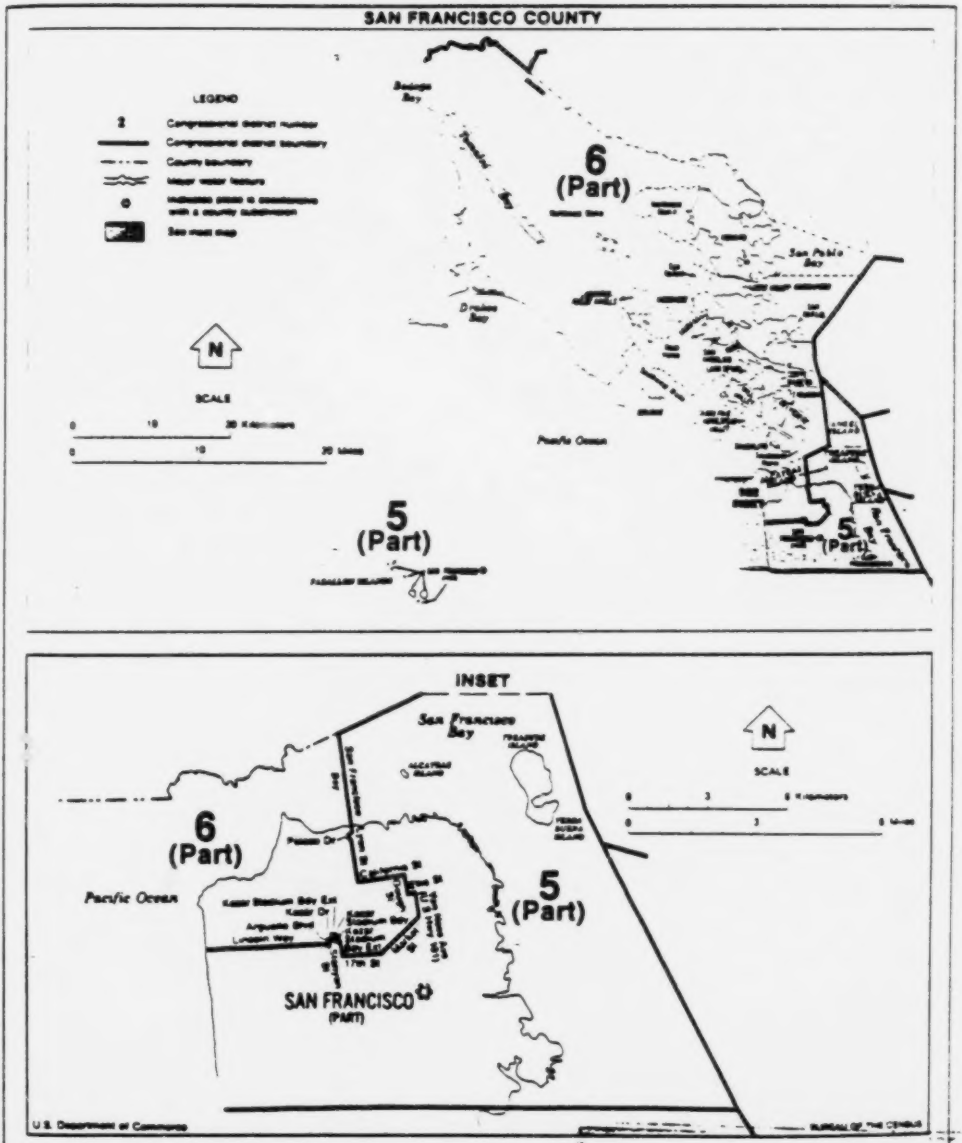
EXHIBIT E, PAGE 33 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

6–196 CALIFORNIA

120

Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

EXHIBIT E, PAGE 34 OF 44

CALIFORNIA 6-107

121

Congressional Districts, Counties, and Selected Places

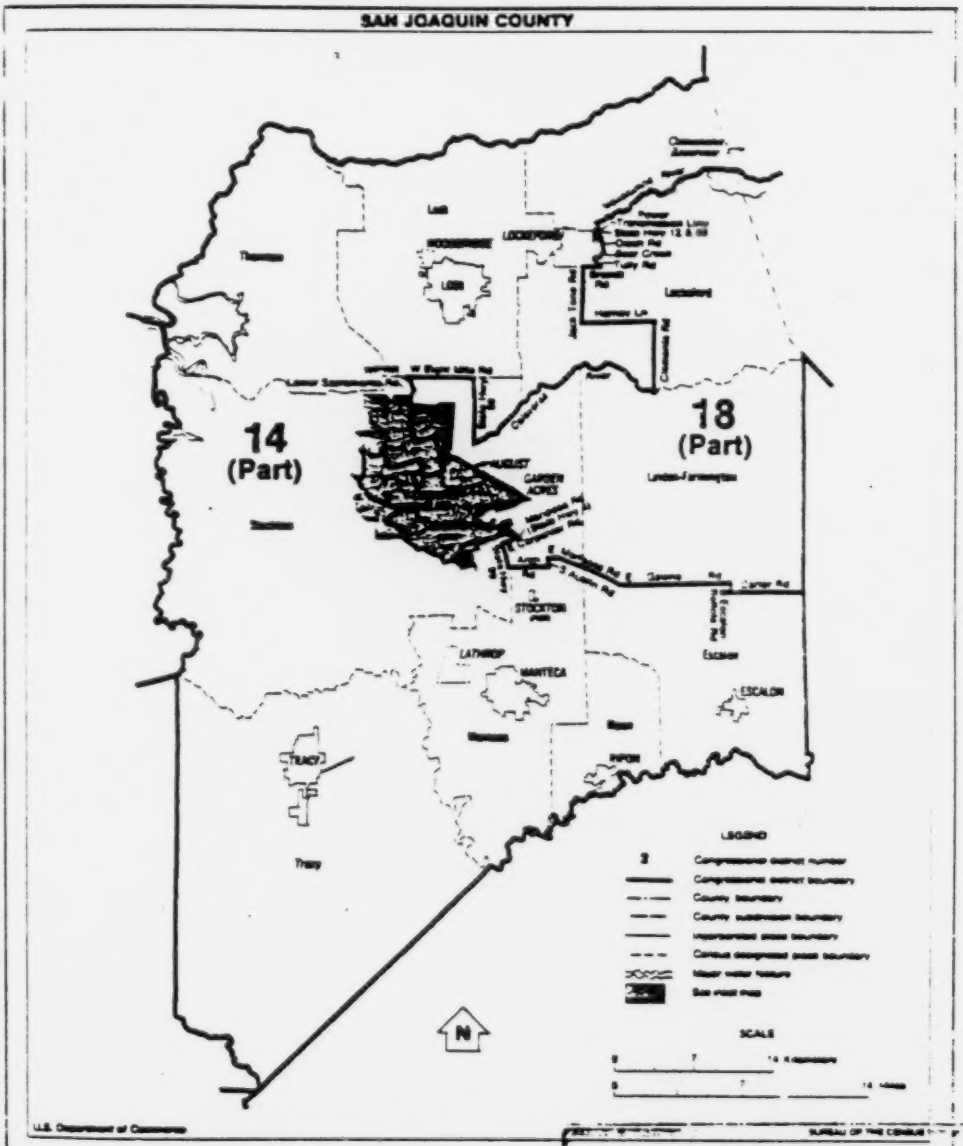


EXHIBIT E, PAGE 35 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

6—186 CALIFORNIA

122

Congressional Districts, Counties, and Selected Places

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

123

EXHIBIT E, PAGE 30 OF 41

CALIFORNIA 6-1B

Congressional Districts, Counties, and Selected Places

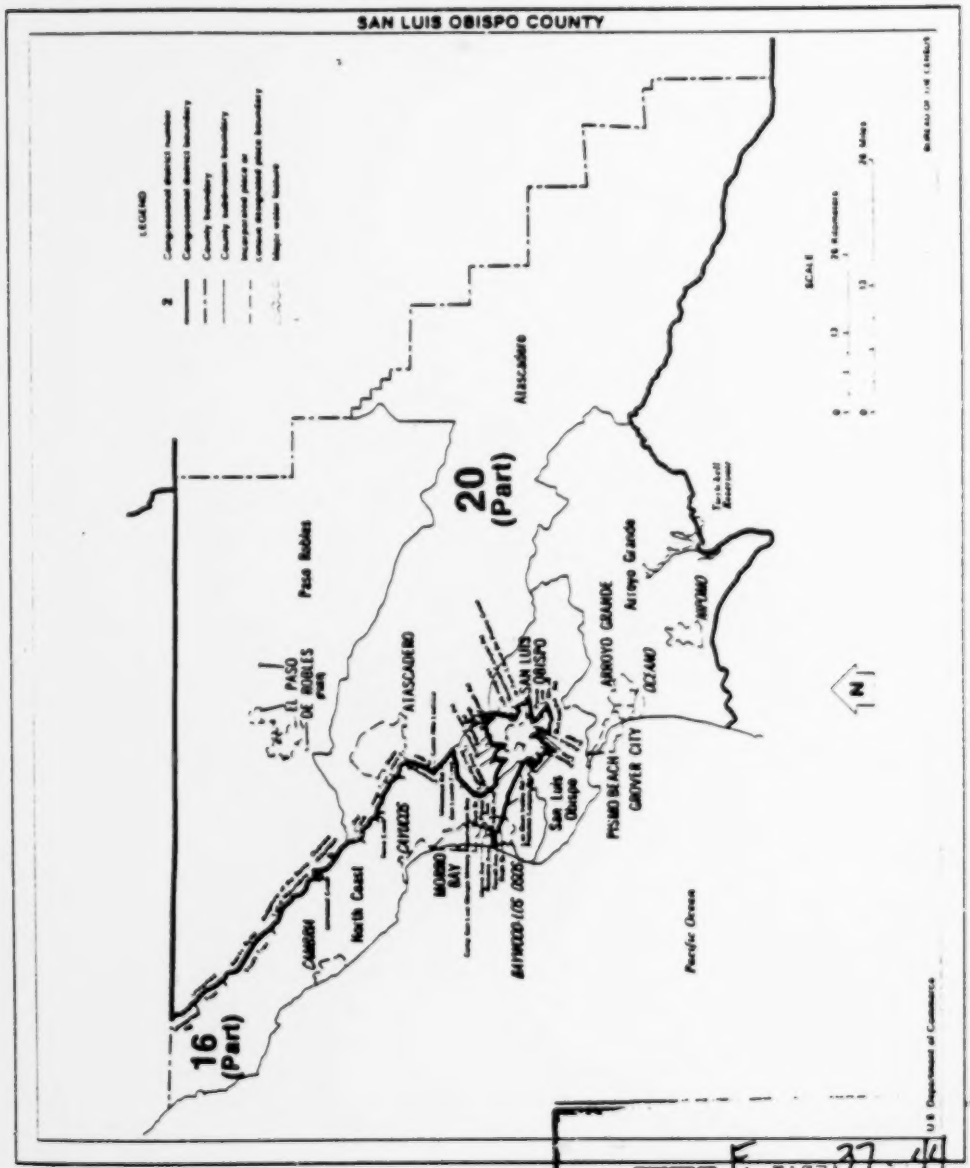


EXHIBIT E PAGE 37 OF 44

6-118 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

129

Congressional Districts, Counties, and Selected Places

Congressional districts established January 3, 1983; all other boundaries are as of January 1, 1980

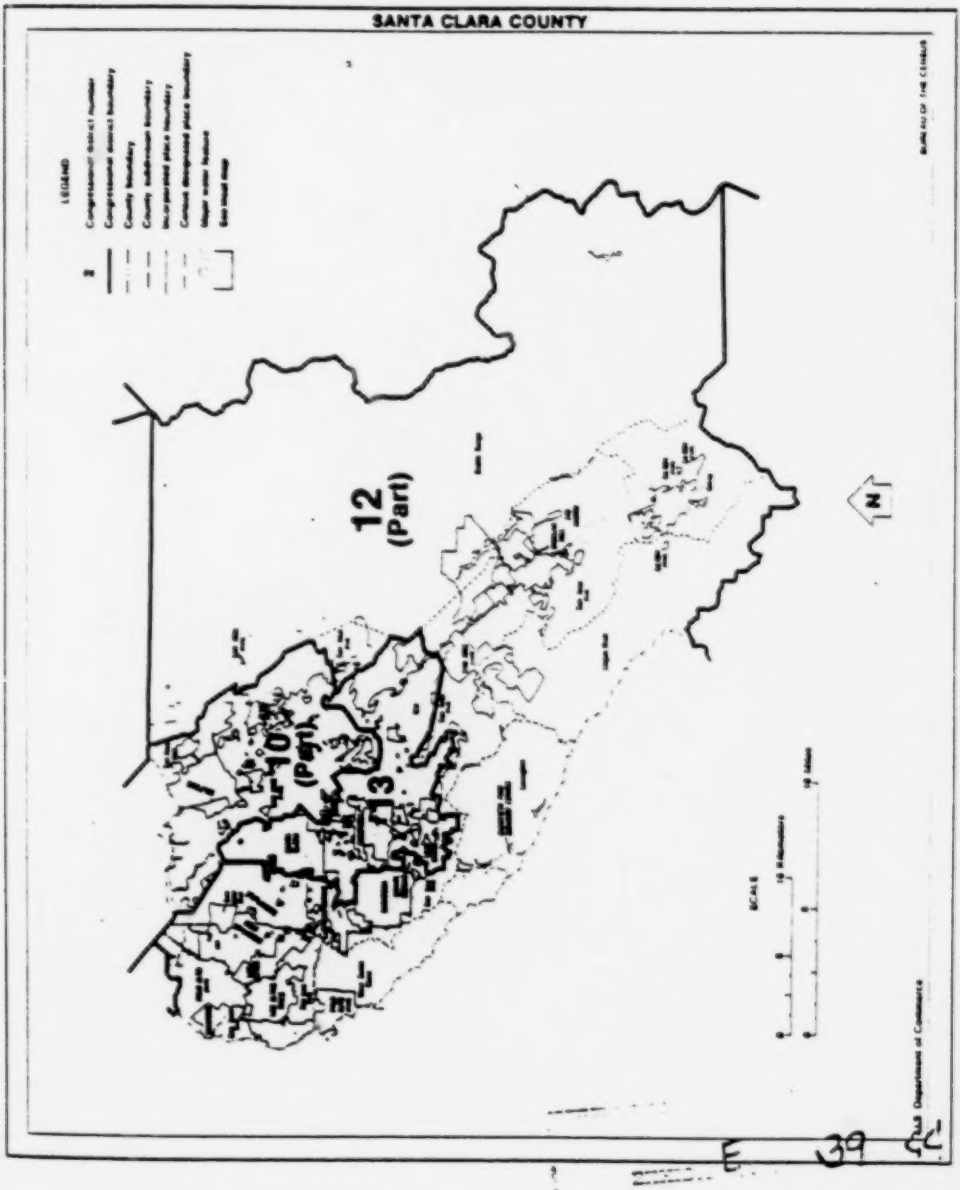
CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

CALIFORNIA 8-111

EXHIBIT E 38 44

125

Congressional Districts, Counties, and Selected Places

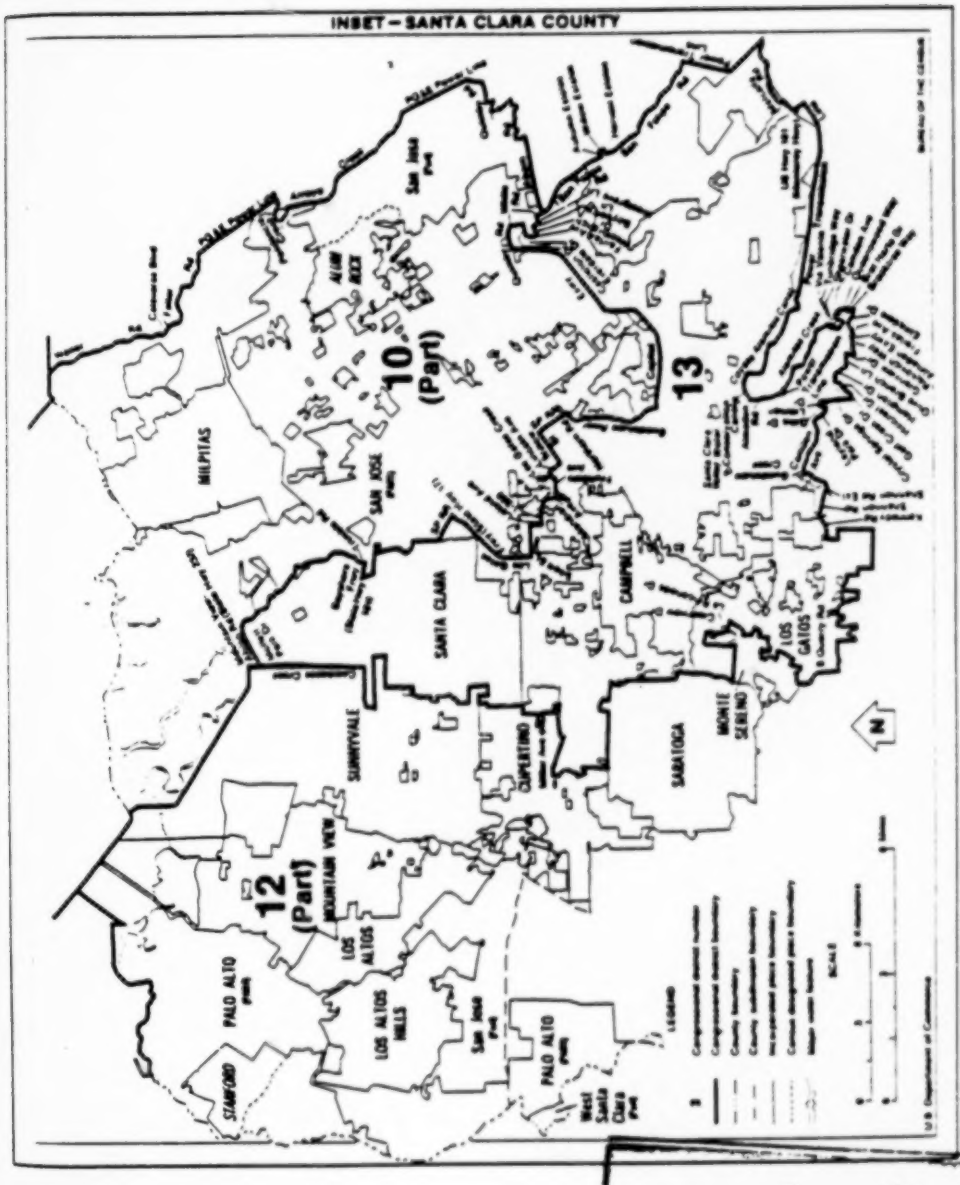


8-112 CALIFORNIA

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

126

Congressional Districts, Counties, and Selected Places



CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

127

EXHIBIT E, PAGE 40 OF 44

Congressional Districts, Counties, and Selected Places

EXHIBIT E, PAGE 41 OF 44

CONGRESSIONAL DISTRICTS OF THE 99TH CONGRESS

6-114 CALIFORNIA

128

Congressional Districts, Counties, and Selected Places

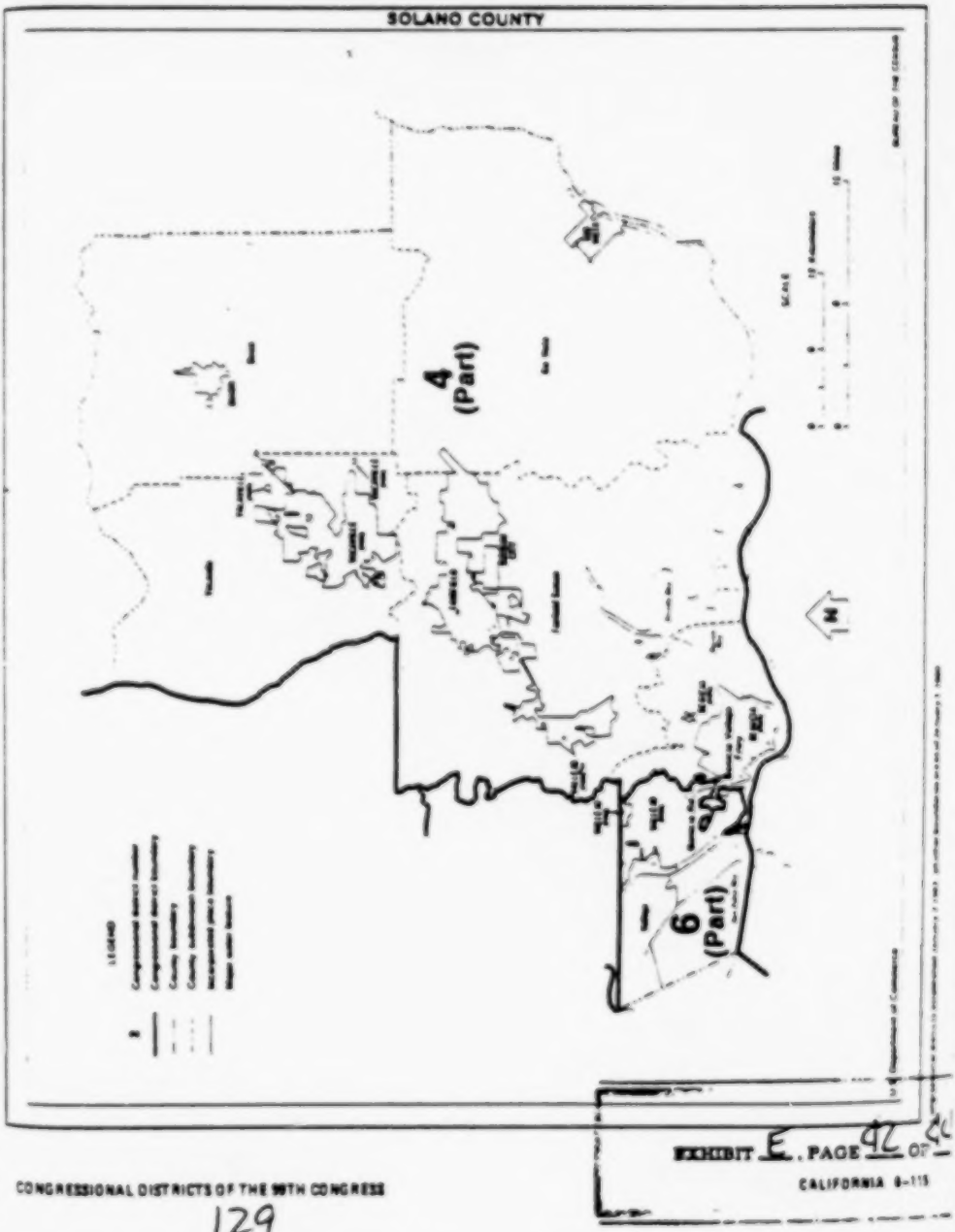


EXHIBIT E, PAGE 42 OF 42

CONGRESSIONAL DISTRICTS OF THE 98TH CONGRESS

CALIFORNIA 6-115

129

Congressional Districts, Counties, and Selected Places

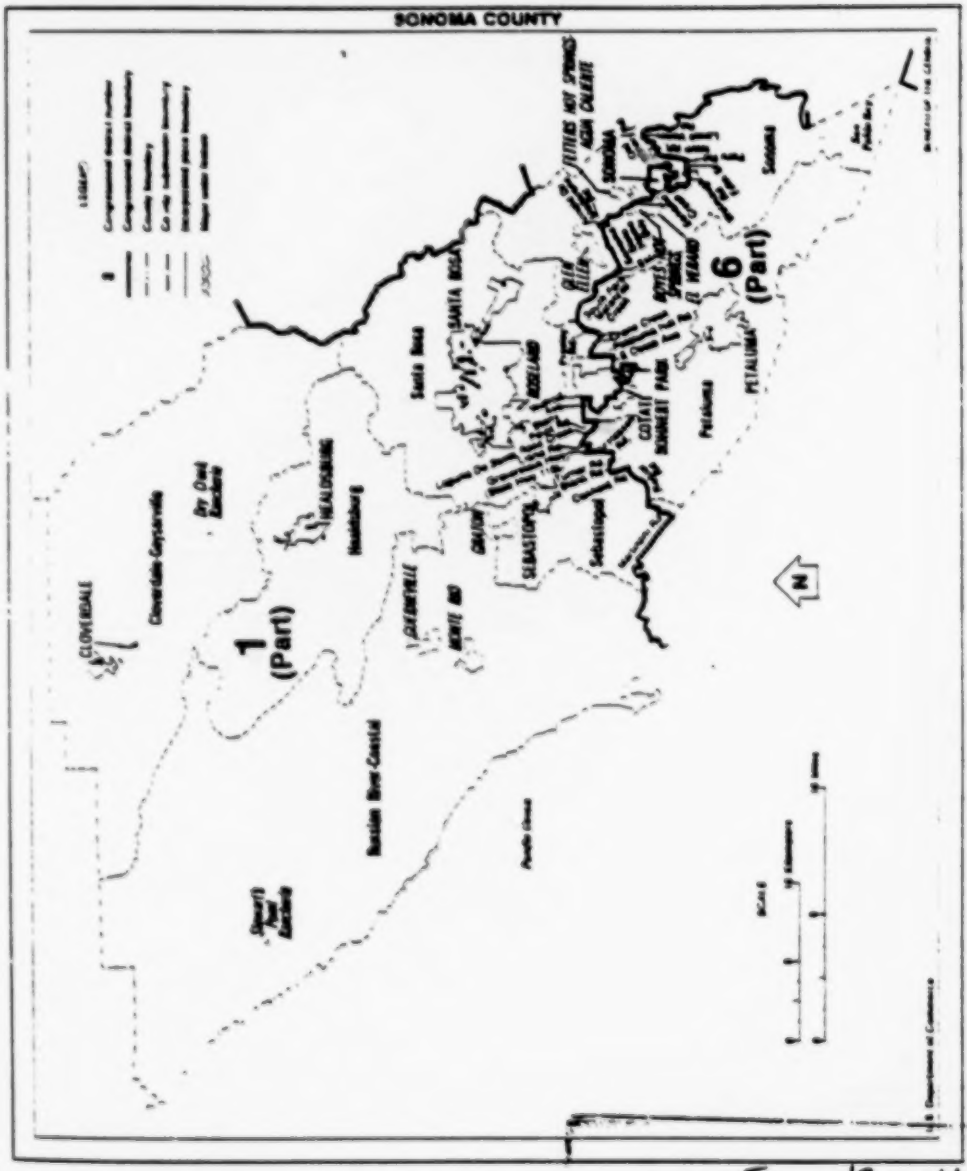


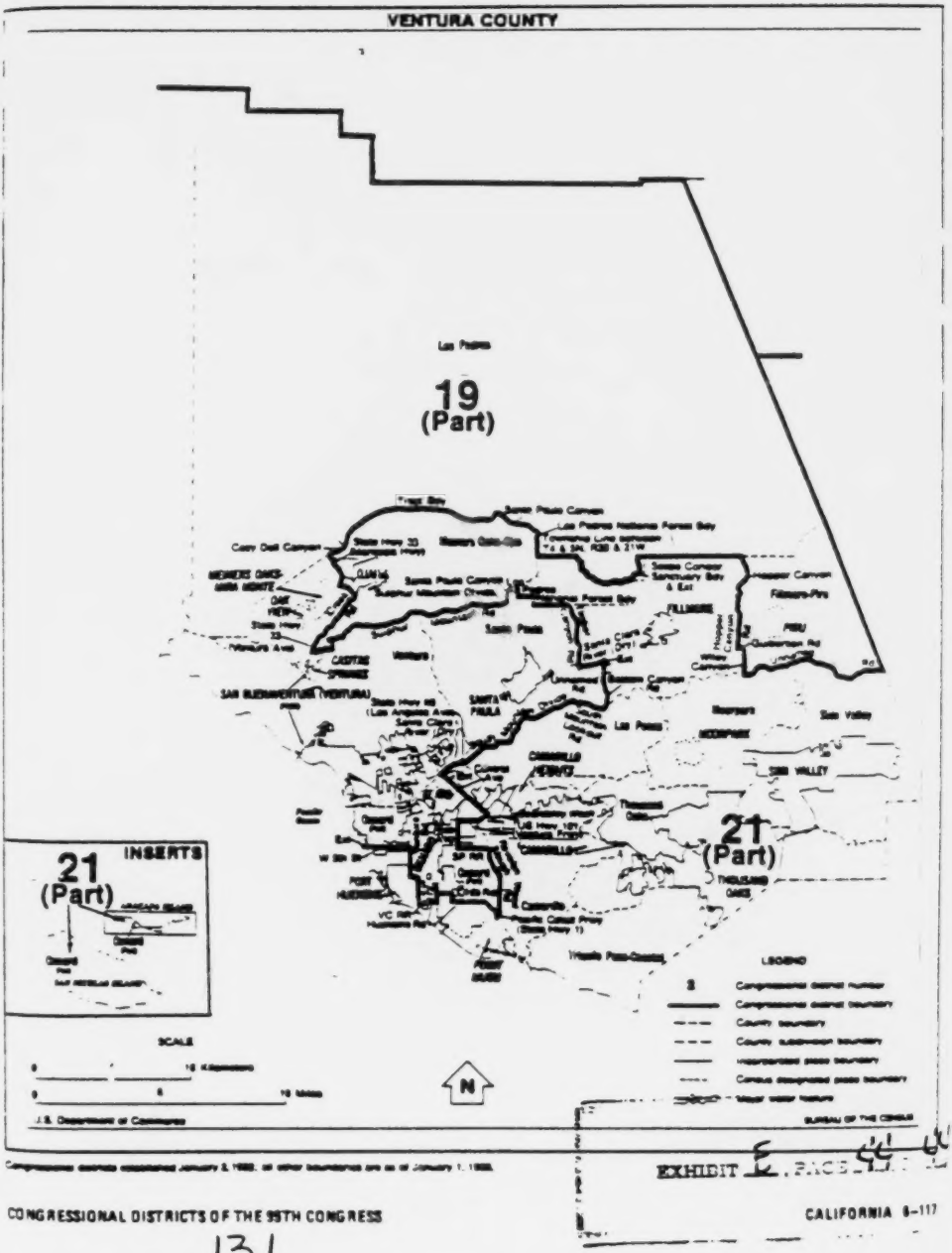
EXHIBIT E, PAGE 43 OF 44

CONGRESSIONAL DISTRICTS OF THE 98TH CONGR

I-116 CALIFORNIA

130

Congressional Districts, Counties, and Selected Places



131

EXHIBIT F

1983 CONGRESSIONAL DISTRICTS
14
15
3
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F 1 3.
132

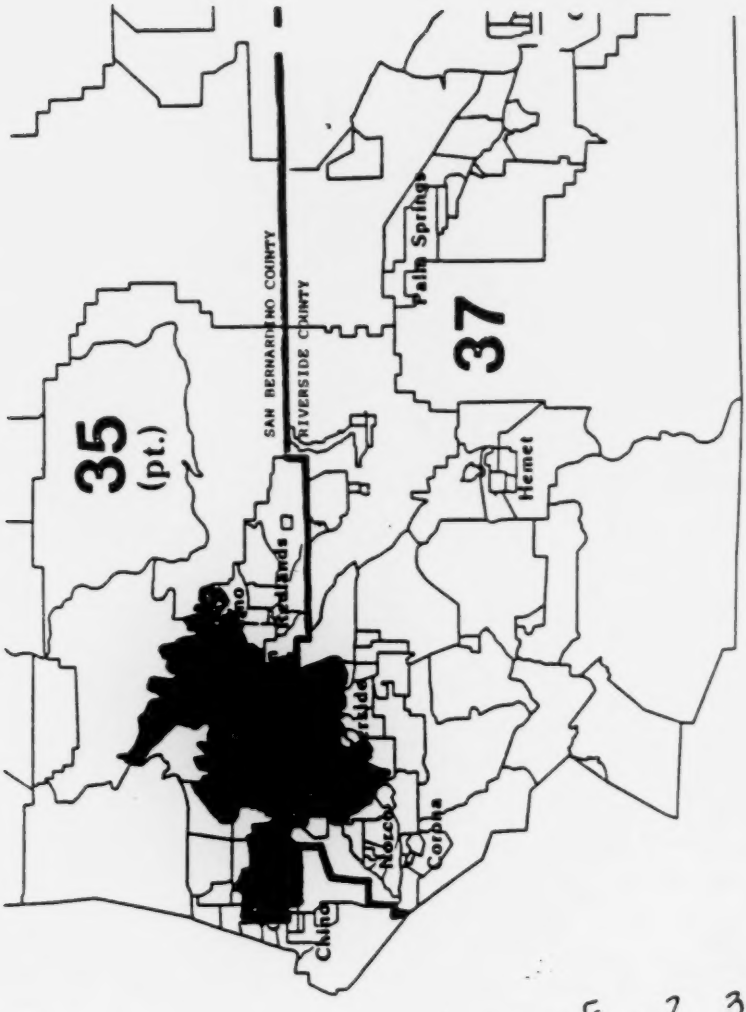
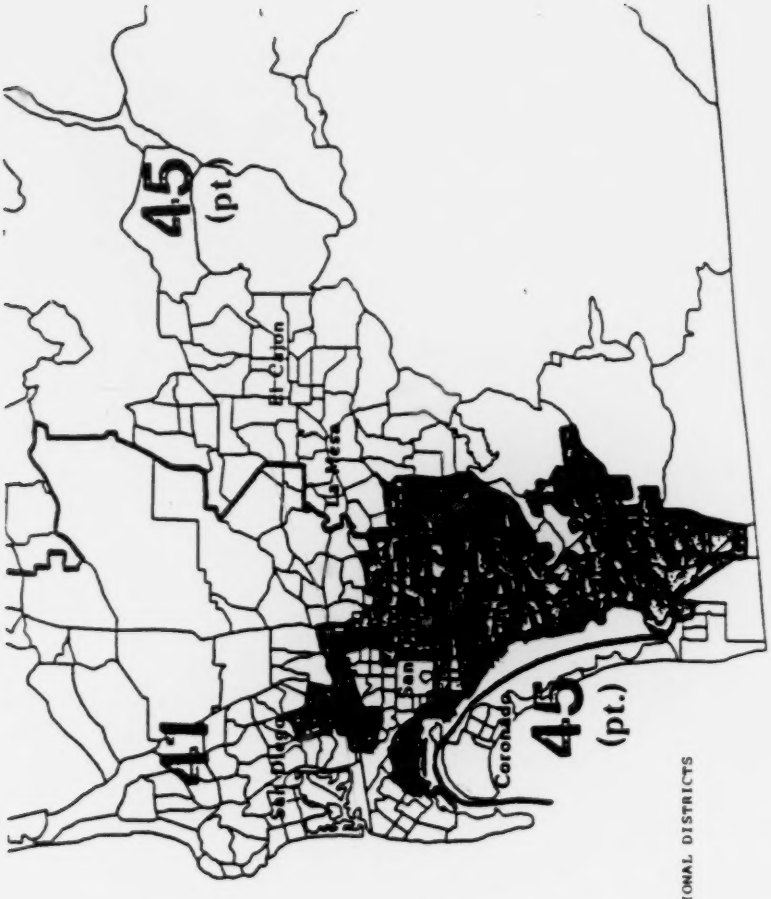


EXHIBIT 23

133

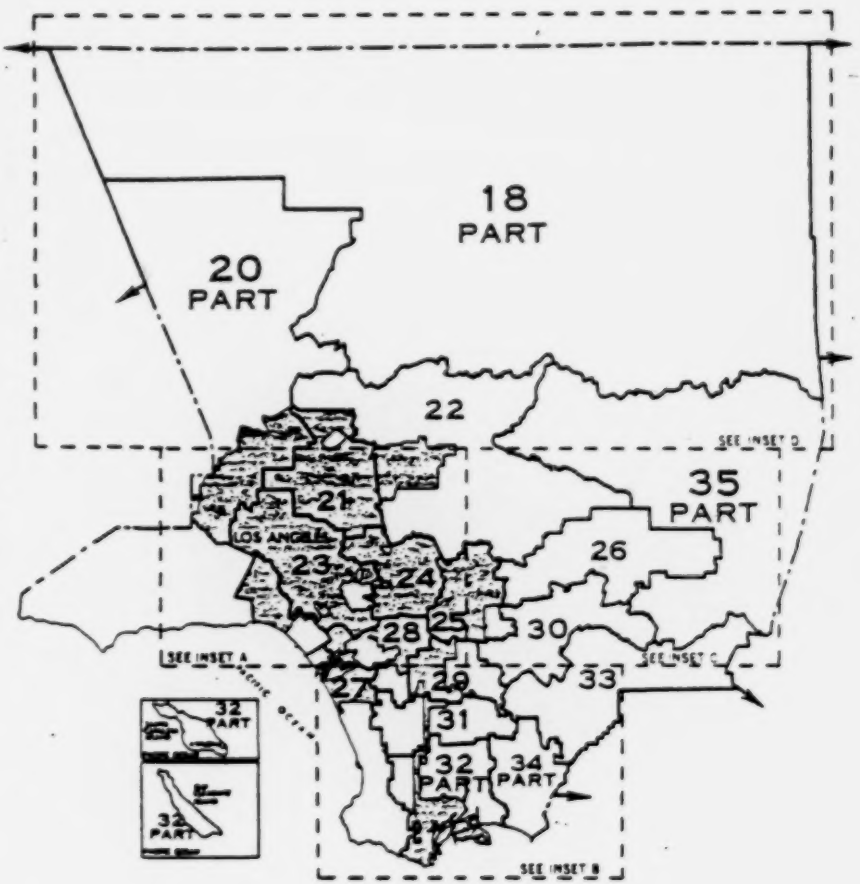

45
(pt)
El Cajon
La Mesa
San
41
San Diego
45
(pt.)
Coronado
1981 CONGRESSIONAL DISTRICTS

134 E 33

EXHIBIT G

CALIFORNIA
Districts Established November 28, 1973

LOS ANGELES COUNTY

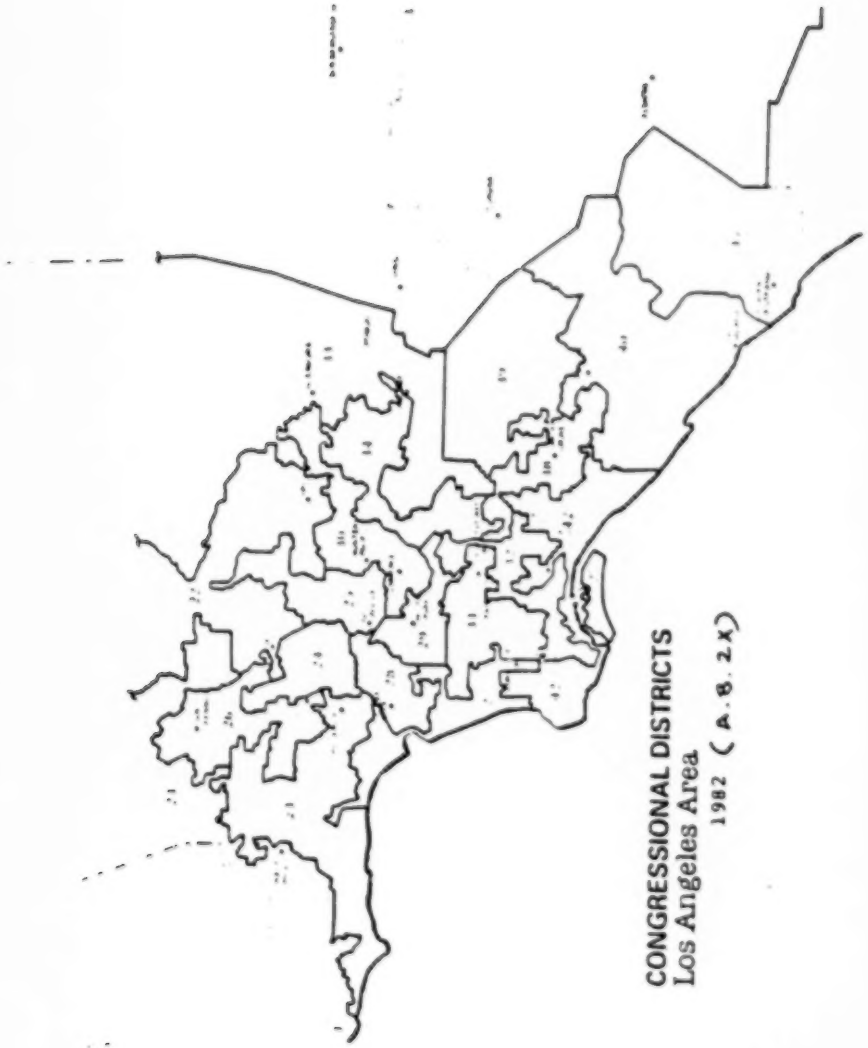


U.S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS

135

EXHIBIT 6, PAGE 1 OF 2

EXHIBIT



136

EXHIBIT 6, PAGE 2 OF

EXHIBIT H

EXHIBIT H

United States Representative in Congress

First Congressional District

County Name	Douglas H. Bosco (Dem.)	Don H. Clausen (Rep.-Inc.)	David Redick (Lib.)
Del Norte	2,749	3,244	163
Glenn	3,082	4,607	156
Humboldt	24,300	21,160	1,802
Mendocino	12,497	13,015	963
Sonoma	62,900	57,055	3,056
Trinity	2,221	2,962	234
District Totals	107,749	102,043	6,374
	49.9	47.2	2.9

Second Congressional District

County Name	Gene Chappie (Rep.-Inc.)	Howard Fegarsky (P. & F.)	John Newmeyer (Dem.)
Butte	36,040	931	24,254
Colusa	2,981	81	1,196
Lake	8,547	265	7,318
Napa	21,369	587	17,338
Shasta	19,715	436	15,226
Sutter	10,394	395	4,464
Tehama	9,503	201	6,572
Yuba	7,623	230	4,946
District Totals	116,172	3,126	81,314
	57.9	1.6	40.5

Third Congressional District

County Name	Bruce A. Daniel (Lib.)	Robert T. Matsui (Dem.-Inc.)	John C. Reiger (P. & F.)
Sacramento	16,222	194,680	6,294
	7.5	89.6	2.9

Fourth Congressional District

County Name	Roger B. Canfield (Rep.)	Vic Fazio (Dem.-Inc.)
Sacramento	36,535	58,307
Solano	17,933	28,978
Yolo	12,579	31,191
District Totals	67,047	118,476
	36.1	63.9

Fifth Congressional District

County Name	Phillip Burton (Dem.-Inc.)	Milton Marks (Rep.)	Justin Raimondo (Lib.)
San Francisco	103,268	72,139	2,904
	57.9	40.5	1.6

Sixth Congressional District

County Name	Timothy Allen Albertson (P. & F.)	Barbara Boxer (Dem.)	Howard C. Creighton (Lib.)	Dennis McQuaid (Rep.)
Marin	935	40,989	1,985	54,567
San Francisco	736	33,788	686	8,254
San Mateo	295	8,665	195	7,277
Solano	400	12,937	325	12,030
District Totals	2,366	96,379	3,191	82,128
	1.3	52.4	1.7	44.6

Seventh Congressional District

County Name	George Miller (Dem.-Inc.)	Rich Newell (Lib.)	Paul E. Vallely (Rep.)	Terry L. Wells (Am. Ind.)
Contra Costa	126,952	2,752	56,960	2,205
	67.1	1.5	30.2	1.2

Eighth Congressional District

County Name	Ronald V. Dellums (Dem.-Inc.)	Claude B. Hutchison Jr. (Rep.)
Alameda	104,918	51,228
Contra Costa	16,619	44,466
District Totals	121,537	95,694
	55.9	44.1

Ninth Congressional District

County Name	Bill Kennedy (Rep.)	Fortney H. (Pete) Stark (Dem.-Inc.)
Alameda	67,702	104,393
	39.3	60.7

Tenth Congressional District

County Name	Dale Burrow (Lib.)	Don Edwards (Dem.-Inc.)	Bob Herriott (Rep.)	Edmon V. Kaiser (Am. Ind.)
Alameda	892	28,757	20,819	1,063
Santa Clara	1,511	48,506	20,687	1,046
District Totals	2,403	77,263	41,506	2,109
	1.9	62.7	33.7	1.7

Eleventh Congressional District

County Name	Wilson Branch (P. & F.)	Nicholas W. Kudrovzeff (Am. Ind.)	Tom Lantos (Dem.-Inc.)	Chuck Olson (Lib.)	Bill Royer (Rep.)
San Mateo	1,572	1,135	90,860	2,273	66,957
Santa Clara	356	115	18,952	647	9,505
District Totals	1,928	1,250	109,812	2,920	76,462
	1.0	0.6	57.1	1.5	39.8

Twelfth Congressional District

County Name	Emmett Lynch (Dem.)	Bill White (Lib.)	Ed Zschau (Rep.)
San Mateo	6,863	787	19,874
Santa Clara	43,330	4,749	80,829
Stanislaus	11,179	935	14,662
District Totals	61,372	6,471	115,365
	33.5	3.5	63.0

Thirteenth Congressional District

County Name	Al Hinkle (Lib.)	Tom Kelly (Rep.)	Norman Y. Mineta (Dem.-Inc.)
Santa Clara	4,553	52,806	110,805
	2.7	31.4	65.9

Fourteenth Congressional District

County Name	Baron Reed (Dem.)	Norman D. Shumway (Rep.-Inc.)
Alpine	97	294
Amador	3,263	6,795
El Dorado	11,944	22,053
Lassen	3,198	4,426
Modoc	995	2,536
Nevada	9,660	15,543
Placer	20,780	28,400
Plumas	2,656	4,041
San Joaquin	13,901	33,737
Shasta	3,747	6,078
Sierra	831	937
Siskiyou	6,328	9,385
District Totals	77,400	134,225
	36.6	63.4

Fifteenth Congressional District

County Name	Ed Bates (Rep.)	Tony Coelho (Dem.-Inc.)	Stephen L. Gerringer (Lib.)
Fresno	14,551	22,046	677
Madera	7,916	9,279	396
Mariposa	1,930	3,545	156
Merced	7,909	22,309	659
Stanislaus	13,642	28,843	1,185
District Totals	45,948	86,022	3,073
	34.0	63.7	2.3

Sixteenth Congressional District

County Name	G. Richard Arnold (Rep.)	Leon E. Panetta (Dem.-Inc.)
Monterey	10,370	64,687
San Benito	1,210	5,714
San Luis Obispo	3,018	7,457
Santa Cruz	9,850	64,772
District Totals	24,448	142,630
	14.6	85.4

Seventeenth Congressional District

County Name	Charles Pashayan, Jr. (Rep.-Inc.)	Gene Tackett (Dem.)
Fresno	25,278	14,607
Kern	7,535	15,470
Kings	10,098	7,922
Tulare	37,360	30,365
District Totals	80,271	68,364
	54.0	46.0

Eighteenth Congressional District

County Name	Adrian Fondse (Rep.)	Marshall William Fritz (Lib.)	Richard Lehman (Dem.)
Calaveras	4,588	277	3,789
Fresno	19,155	1,681	49,885
Mono	1,630	72	1,264
San Joaquin	26,939	1,183	30,798
Tuolumne	7,352	288	7,026
District Totals	59,664	3,501	92,762
	38.3	2.2	59.5

Nineteenth Congressional District

County Name	Frank Frost (Dem.)	R. C. Gordon-McCutchan (Lib.)	Robert J. "Bob" Lagomarsino (Rep.-Inc.)	Charles J. Zekan (P. & F.)
Santa Barbara	40,195	2,781		715
Ventura	25,847	1,417	70,299	805
District Totals	66,042	4,198	42,187	1,520
	35.8	2.3	112,486	0.8
			61.1	

Twentieth Congressional District

County Name	Robert J. Bethea (Dem.)	William M. Thomas (Rep.-Inc.)
Kern	30,957	69,905
Los Angeles	8,772	22,225
San Luis Obispo	18,040	31,182
District Totals	57,769	123,312
	31.9	68.1

Twenty-first Congressional District

County Name	Bobbi Fiedler (Rep.-Inc.)	George Henry Margolis (Dem.)	Daniel Wiener (Lib.)
Los Angeles	63,930	21,931	3,015
Ventura	74,544	24,481	4,866
District Totals	138,474	46,412	7,881
	71.8	24.1	4.1

Twenty-second Congressional District

County Name	Robert T. Gerringer (Lib.)	Harvey L. Goldhammer (Dem.)	Carlos J. Moorhead (Rep.-Inc.)
Los Angeles	5,870	46,521	145,831
	3.0	23.5	73.5

Twenty-third Congressional District

County Name	David Armor (Rep.)	Anthony C. Beilenson (Dem.-Inc.)
Los Angeles	82,031	120,788
	40.4	59.6

Twenty-fourth Congressional District

County Name	Jeff Mandel (Lib.)	Henry A. Waxman (Dem.-Inc.)	Jerry Zerg (Rep.)
Los Angeles	5,420	88,516	42,133
	4.0	65.0	31.0

Twenty-fifth Congressional District

County Name	Daniel John Gorham (Lib.)	Edward R. Roybal (Dem.-Inc.)
Los Angeles	12,060	71,106
	14.5	85.5

Twenty-sixth Congressional District

County Name	Howard L. Berman (Dem.)	Hal Phillips (Rep.)
Los Angeles	97,383	66,072
	59.6	40.4

Twenty-seventh Congressional District

County Name	Bart W. Christensen (Rep.)	Mel Levine (Dem.)	Zack Richardson (Lib.)
Los Angeles	67,479	108,347	6,391
	37.0	59.5	3.5

Twenty-eighth Congressional District

County Name	Julian C. Dixon (Dem.-Inc.)	David Gorez (Rep.)	David W. Meleney (Lib.)
Los Angeles	103,469	24,473	3,210
	78.9	18.7	2.4

Twenty-ninth Congressional District

County Name	Augustus F. (Gus) Hawkins (Dem.-Inc.)	Milton R. Mackaig (Rep.)
Los Angeles	97,028	24,568
	79.8	20.2

Thirtieth Congressional District

County Name	Matthew G. Martinez (Dem.-Inc.)	John H. Rousselot (Rep.)
Los Angeles	60,905	52,177
	53.9	46.1

Thirty-first Congressional District

County Name	Mervyn M. Dymally (Dem.-Inc.)	Henry C. Minturn (Rep.)
Los Angeles	86,718	33,043
	72.4	27.6

Thirty-second Congressional District

County Name	Glenn M. Anderson (Dem.-Inc.)	Brian Lungren (Rep.)	Eugene E. Ruyle (P. & F.)
Los Angeles	84,663	57,863	3,473
	58.0	39.6	2.4

Thirty-third Congressional District

County Name	David Dreier (Rep.)	Phillips B. Franklin (Lib.)	James Michael Noonan (P. & F.)	Paul Servelle (Dem.)
Los Angeles	112,362	2,251	2,223	55,514
	65.2	1.3	1.3	32.2

Thirty-fourth Congressional District

County Name	Paul R. Jackson (Rep.)	Esteban Ed Torres (Dem.)
Los Angeles	51,026	68,316
	42.8	57.2

Thirty-fifth Congressional District

County Name	Robert E. Erwin (Dem.)	Jerry Lewis (Rep.-Inc.)
Inyo	2,313	5,220
Los Angeles	408	515
San Bernardino	49,628	107,051
District Totals	52,349	112,786
	31.7	68.3

Thirty-sixth Congressional District

County Name	George E. Brown, Jr. (Dem.-Inc.)	John Paul Stark (Rep.)
Riverside	21,835	16,447
San Bernardino	54,711	47,914
District Totals	76,546	64,361
	54.3	45.7

Thirty-seventh Congressional District

County Name	Curtis R. "Sam" Cross (Dem.)	Al McCandless (Rep.)	Marc R. Wruble (Lib.)
Riverside	68,510	105,065	4,297
	38.5	59.1	2.4

Thirty-eighth Congressional District

County Name	Anita K. Barr (Lib.)	William F. (Bill) Dohr (Rep.)	Jerry M. Patterson (Dem.-Inc.)
Orange	5,989	61,279	73,914
	4.2	43.4	52.4

Thirty-ninth Congressional District

County Name	Frank Boeheim (P. & F.)	William E. (Bill) Dannemeyer (Rep.-Inc.)	Frank G. Verges (Dem.)
Orange	3,152	129,539	46,681
	1.8	72.2	26.0

Fortieth Congressional District

County Name	Robert E. Badham (Rep.-Inc.)	Paul Haseman (Dem.)	Maxine Bell Quirk (P. & F.)
Orange	144,228	52,546	4,826
	71.5	26.1	2.4

Forty-first Congressional District

County Name	Tony Brandenburg (Dem.)	Everett Hale (Lib.)	Bill Lowery (Rep.-Inc.)
San Diego	58,677	4,654	140,130
	28.8	2.3	68.9

Forty-second Congressional District

County Name	John S. Donohue (P. & F.)	Dan Lungren (Rep.-Inc.)	James P. Spellman (Dem.)
Los Angeles	3,320	88,735	36,438
Orange	2,194	54,110	22,252
District Totals	5,514	142,845	58,690
	2.7	69.0	28.3

Forty-third Congressional District

County Name	Roy "Pat" Archer (Dem.)	Johnnie R. Crean (Rep.)	Ron Packard (Rep. write-in)
Orange	17,229	22,936	15,927
San Diego	40,766	33,361	50,517
District Totals	57,995	56,297	66,444
	32.1	31.1	36.8

Forty-fourth Congressional District

County Name	Jim Bates (Dem.)	Jim Conole (Lib.)	Shirley M. Gissendanner (Rep.)
San Diego	78,474	3,904	38,447
	65.0	3.2	31.8

Forty-fifth Congressional District

County Name	Richard Hill (Dem.)	Duncan Hunter (Rep.-Inc.)	Jack R. Sanders (Lib.)
Imperial	7,485	11,717	460
San Diego	42,663	106,054	3,379
District Totals	50,148	117,771	3,839
	29.2	68.6	2.2

EXHIBIT I

EXHIBIT I

United States Representative in Congress

First Congressional District

	Douglas H Bosco (Dem-Inc)	David Redick (Rep)
Del Norte	4,432	2,550
Humboldt	35,801	15,787
Lake	10,857	7,506
Mendocino	19,131	11,029
Napa	16,686	14,234
Sonoma	70,130	44,080
District Totals	157,037	95,186
	62.3%	37.7%

Second Congressional District

	Gene Chappie (Rep-Inc)	Harry Cozad (Dem)
Butte	45,142	24,262
Colusa	4,102	1,038
Glenn	6,422	2,045
Lake	706	379
Napa	10,397	4,280
Nevada	3,553	1,353
Shasta	35,878	14,240
Siskiyou	11,392	5,902
Sutter	14,512	3,899
Tehama	11,929	5,538
Trinity	4,043	2,072
Yuba	10,603	4,785
District Totals	158,679	69,793
	69.5%	30.5%

Third Congressional District

	Robert T Matsui (Dem-Inc)
Sacramento	131,369
	100%

Fourth Congressional District

	Vic Fazio (Dem-Inc)	Roger Canfield (Rep)	Roger Conant Pope (Lib)
Sacramento	58,495	39,811	2,150
Solano	37,048	23,102	983
Yolo	34,566	14,860	906
District Totals	130,109	77,773	4,039
	61.4%	36.7%	1.9%

Fifth Congressional District

	Sala Burton (Dem-Inc)	Tom Spinosa (Rep)	Joseph Fuhrig (Lib)	Henry Clark (P&F)
San Francisco	139,692	45,930	4,008	3,574
	72.3%	23.8%	2.1%	1.8%

Sixth Congressional District

	Barbara Boxer	Douglas Binderup (Rep)	Howard Creighton (Lib)
Marin	70,480	40,446	3,195
San Francisco	48,457	10,905	1,085
Solano	22,456	8,063	541
Sonoma	21,118	11,597	753
District Totals	162,511	71,011	5,574
	68%	29.7%	2.3%

Seventh Congressional District

	George Miller (Dem-Inc)	Rosemary Thakar (Rep)
Contra Costa	158,306	78,985
	66.7%	33.3%

Eighth Congressional District

	Ronald V Dellums (Dem-Inc)	Charles Connor (Rep)
Alameda	119,755	46,574
Contra Costa	24,561	48,333
District Totals	144,316	94,907
	60.3%	39.7%

Ninth Congressional District

	Fortney Peter Stark (Dem-Inc)	J T Eager Beaver (Rep)	Martha Fuhrig (Lib)
Alameda	136,511	51,399	7,398
	69.9%	26.3%	3.8%

Tenth Congressional District

	Don Edwards (Dem-Inc)	Robert P Herriott (Rep)	Perr Cardestam (Lib)	Edmon V Kaiser (A-I)
Alameda	38,304	27,104	1,038	989
Santa Clara	64,165	29,152	1,751	1,674
District Totals	102,469	56,256	2,789	2,663
	62.4%	34.3%	1.7%	1.6%

Eleventh Congressional District

	Tom Lantos (Dem-Inc)	John J 'Jack' Hickey (Rep)	Nicholas W Kudrovzeff (A-I)
San Mateo	147,607	59,625	3,883
	69.9%	28.3%	1.8%

Twelfth Congressional District

	Ed Zschau (Rep-Inc)	Martin Carnoy (Dem)	Bill White (Lib)
San Mateo	23,430	9,699	757
Santa Clara	121,900	74,269	4,398
Santa Cruz	10,465	7,058	717
District Totals	155,795	91,026	5,872
	61.7%	36.0%	2.3%

Thirteenth Congressional District

	Norman Y Mineta (Dem-Inc)	John D 'Jack' Williams (Rep)	John R Redding (Lib)
Santa Clara	139,851	70,666	3,836
	65.2%	33%	1.8%

Fourteenth Congressional District

	Norm Shumway (Rep-Inc)	Ruth 'Paula' Carlson (Dem)	Fred W Colburn (Lib)
Alpine	303	128	20
Amador	8,096	2,283	246
El Dorado	31,513	9,415	931
Lassen	6,194	2,164	192
Modoc	3,241	822	90
Nevada	18,257	6,753	965
Placer	41,550	14,598	2,598
Plumas	5,614	2,221	234
San Joaquin	63,305	19,404	1,521
Sierra	1,165	596	53
District Totals	179,238	58,384	6,850
	73.3%	23.9%	2.8%

Fifteenth Congressional District

	Tony Coelho (Dem-Inc)	Carol Harner (Rep)	Richard M Harris (Lib)
Fresno	20,164	9,092	553
Mariposa	3,678	2,615	172
Merced	27,364	11,418	832
Stanislaus	58,384	31,605	1,529
District Totals	109,590	54,730	3,086
	65.5%	32.7%	1.8%

Sixteenth Congressional District

	Leon E Panetta (Dem-Inc)	Patricia Smith Ramsey (Rep)	Bill Anderson (Lib)
Monterey	71,786	26,988	1,227
San Benito	5,372	3,329	217
San Luis Obispo	19,344	11,763	547
Santa Cruz	56,875	17,985	1,254
District Totals	153,377	60,065	3,245
	70.8%	27.7%	1.5%

Seventeenth Congressional District

	Charles 'Chip' Pashayan (Rep-Inc)	Simon Lakritz (Dem)
Fresno	50,369	14,040
Kern	9,233	8,139
Kings	13,746	7,292
Tulare	55,454	19,417
District Totals	128,802	48,888
	72.5%	27.5

Eighteenth Congressional District

	Richard H Lehman (Dem-Inc)	Dale L Ewen (Rep)
Calaveras	6,201	5,516
Fresno	66,294	25,471
Madera	11,076	8,423
Mono	1,835	1,729
San Joaquin	32,652	14,070
Tuolumne	10,128	7,130
District Totals	128,186	62,339
	67.3%	32.7%

Nineteenth Congressional District

	Robert J 'Bob' Lagomarsino (Rep-Inc)	James C Carey Jr (Dem)	Charles John Zekan (P&F)
Santa Barbara	96,204	43,183	2,472
Ventura	56,983	27,095	1,689
District Totals	153,187	70,278	4,161
	67.3%	30.9%	1.8%

Twentieth Congressional District

	William M Thomas (Rep-Inc)	Mike LeSage (Dem)
Inyo	5,749	2,202
Kern	90,708	37,278
Los Angeles	26,417	7,407
San Luis Obispo	28,858	15,420
District Totals	151,732	62,307
	70.9%	29.1%

Twenty-first Congressional District

	Bobbi Fiedler (Rep-Inc)	Charles 'Charlie' Davis (Dem)	Robert T Leet (Lib)
Los Angeles	78,695	25,171	1,805
Ventura	94,809	36,914	2,574
District Totals	173,504	62,085	4,379
	72.3%	25.9%	1.8%

Twenty-second Congressional District

	Carlos J Moorhead (Rep-Inc)	Michael B Yauch (Lib)
Los Angeles	184,981	32,036
	85.2%	14.8%

Twenty-third Congressional District

	Anthony C Beilenson (Dem-Inc)	Claude Parrish (Rep)	Larry Leathers (Lib)
Los Angeles	140,461	84,093	3,580
	61.6%	36.9%	1.5%

Twenty-fourth Congressional District

	Henry A Waxman (Dem-Inc)	Jerry Zerg (Rep)	James Green (P&F)	Tim Custer (Lib)
Los Angeles	97,340	51,010	2,780	2,477
	63.4%	33.2%	1.8%	1.6%

Twenty-fifth Congressional District

	Edward R Roybal (Dem-Inc)	Roy D 'Bill' Bloxom (Rep)	Anthony G Bajada (Lib)
Los Angeles	74,261	24,968	4,370
	71.7%	24.1%	4.2%

Twenty-sixth Congressional District

	Howard L Berman (Dem-Inc)	Miriam Ojeda (Rep)
Los Angeles	117,080	69,372
	62.8%	37.2%

Twenty-seventh Congressional District

	Mel Levine (Dem-Inc)	Robert B Scribner (Rep)	Thomas L O'Connor Jr (P&F)	Jeff Avrech (Lib)
Los Angeles	116,933	88,896	3,815	3,137
	54.9%	41.8%	1.8%	1.5%

Twenty-eighth Congressional District

	Julian C Dixon (Dem-Inc)	Beatrice M Jett (Rep)	Don 'Swemgi-murti' Federick (Lib)
Los Angeles	113,076	33,511	2,930
	75.6%	22.4%	2%

Twenty-ninth Congressional District

	Augustus F 'Gus' Hawkins (Dem-Inc)	Echo Y Goto (Rep)
Los Angeles	108,777	16,781
	86.6%	13.4%

Thirtieth Congressional District

	Matthew G 'Marty' Martinez (Dem-Inc)	Richard Gomez (Rep)	Houston A Myers (A-I)
Los Angeles	64,378	53,900	6,055
	51.8%	43.3%	4.9%

Thirty-first Congressional District

	Mervyn M Dymally (Dem-Inc)	Henry C Minturn (Rep)
Los Angeles	100,658	41,691
	70.7%	29.3%

Thirty-second Congressional District

	Glenn M Anderson (Dem-Inc)	Roger E Fiola (Rep)	Marc F Denny (Lib)	Patrick J McCoy (P&F)
Los Angeles	102,961	62,176	2,517	2,051
	60.7%	36.6%	1.5%	1.2%

Thirty-third Congressional District

	David Dreier (Rep-Inc)	Claire K McDonald (Dem)	Gail Lightfoot (Lib)	Mike Noonan (P&F)
Los Angeles	147,363	54,147	4,738	2,371
	70.6%	26%	2.3%	1.1%

Thirty-fourth Congressional District

	Esteban E Torres (Dem-Inc)	Paul R Jackson (Rep)
Los Angeles	87,060	58,467
	59.8%	40.2%

Thirty-fifth Congressional District

	Jerry Lewis (Rep-Inc)	Kevin Akin (P&F)
Los Angeles	7,172	1,669
San Bernardino	169,305	28,321
District Totals	176,477	29,990
	85.5%	14.5%

Thirty-sixth Congressional District

	George E Brown Jr (Dem-Inc)	John Paul Stark (Rep)
Riverside	29,798	21,858
San Bernardino	74,640	58,354
District Totals	104,438	80,212
	56.6%	43.4%

Thirty-seventh Congressional District

	Al McCandless (Rep-Inc)	David E 'Dave' Skinner (Dem)
Riverside	149,955	85,908
	63.6%	36.4%

Thirty-eighth Congressional District

	Robert K 'Bob' Dornan (Rep)	Jerry M Patterson (Dem-Inc)	Michael Schuyles Bright (P&F)
Los Angeles	9,641	8,162	274
Orange	76,904	65,069	2,747
District Totals	86,545	73,231	3,021
	53.2%	45%	1.8%

Thirty-ninth Congressional District

	William E 'Bill' Dannemeyer (Rep-Inc)	Robert E Ward (Dem)
Orange	175,788	54,889
	76.2%	23.8%

Fortieth Congressional District

	Robert E Badham (Rep-Inc)	Carol Ann Bradford (Dem)	Maxine Bell Quirk (P&F)
Orange	164,257	86,748	3,969
	64.4%	34%	1.6%

Forty-first Congressional District

	Bill Lowery (Rep-Inc)	Bob Simmons (Dem)	Sara Baase (Lib)
San Diego	161,068	85,475	7,303
	63.4%	33.7%	2.9%

Forty-second Congressional District

	Dan Lungren (Rep-Inc)	Mary Lou Brophy (Dem)	John S Donohue (P&F)
Los Angeles	92,812	30,690	2,850
Orange	84,971	29,335	2,961
District Totals	177,783	60,025	5,811
	73%	24.6%	2.4%

Forty-third Congressional District

	Ron Packard (Rep-Inc)	Lois E Humphreys (Dem)	Phyllis Avery (Lib)
Orange	58,065	14,670	2,034
San Diego	107,578	36,326	4,844
District Totals	165,643	50,996	6,878
	74.1%	22.8%	3.1%

Forty-fourth Congressional District

	Jim Bates (Dem-Inc)	Neill Campbell (Rep)	Jim Conole (Lib)
San Diego	99,378	39,977	3,206
	69.7%	28%	2.3%

Forty-fifth Congressional District

	Duncan Hunter (Rep-Inc)	David W Guthrie (Dem)	Patrick Wright (Lib)
Imperial	14,992	7,220	370
San Diego	134,019	38,105	3,601
Total	149,011	45,325	3,971
	75.1%	22.9%	2%

APPENDIX E

NIELSEN, HODGSON,
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Attorneys for Plaintiffs

RECEIVED
DEC 22, 1986

WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S.,	No. C-83-1126RHS THREE-JUDGE COURT ORDER GRANTING PLAINTIFFS' MOTION TO FILE AMENDMENT TO COMPLAINT TO ADD PARTIES PLAINTIFF AND ORDERING FILING OF OFFICIAL CANVASS OF THE VOTE
Plaintiffs,	
vs.	

MARCH FONG EU, Secretary of State of the State of California	)
Defendant,	)
ASSEMBLY OF THE STATE OF CALIFORNIA, THE CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION,	)
Intervenors.	)

This matter having come for hearing on December 5, 1986, on the motion of plaintiffs to file an amendment to their Third Amended Complaint by adding parties plaintiff, the Court having considered the brief and other documents filed in support of the motion, there being no opposition to the amendment, and being fully advised,

IT IS ORDERED THAT plaintiffs' motion be and the same hereby is granted, and that plaintiffs' file their amendment to add additional plaintiffs.

Dated: Jan. 13, 1987

/s/ ROBERT H. SCHNACKE
ROBERT H. SCHNACKE
United States District Judge

APPENDIX F

NIELSEN, HODGSON,
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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT E. BADHAM, ROBERT NAYLOR, ERIC SEASTRAND, ALDO SILVESTRI, MICHAEL W. COBB, FRANK O. VERLOT, DONNA S. RICHARDSON, PETER SCHRAGER, JANE BAKER, CHARLES A. MEYER, KIRK LINDSEY, DONALD DRISCOLL, ROGER T. ERICKSON, D.D.S.,	No. C-83-1126RHS THREE-JUDGE COURT
Plaintiffs,	AMENDMENT TO THIRD AMENDED COMPLAINT
vs.	
MARCH FONG EU, Secretary of State of the State of California,	
Defendant,	

ASSEMBLY OF THE STATE OF CALIFORNIA, THE CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION,	)
Intervenors.	)

Plaintiffs amend their Third Amended Complaint as follows:

1. Plaintiffs insert the following names in the caption as plaintiffs: CYNTHIA TROBITZ-THOMAS; WALLY HERGER; LOWELL LANDOWSKI; JACK HITE; MIKE GARZA; DENNIS McQUAID; ROSEMARY THAKAR; STEVE EIGENBERG; DAVID WILLIAMS; MICHAEL LaCRONE; BOB NASH; NORMAN SHUMWAY; CHIP PASHAYAN; DAVID CREVELT; ROBERT LAGOMARSINO; BILL THOMAS; ELTON GALLEGLY; CARLOS MOORHEAD; GEORGE WOOLVERTON; JERRY ZERG; DAVID BAIRD; ROBERT KERNS; ROBERT SCRIBNER; GEORGE ADAMS; CARL JOHNSON; JOHN W. ALMQUIST; JACKSON M. McMURRAY; JOYCE ROBERTSON; DAVID DREIER; CHARLES HOUSE; JERRY LEWIS; BOB HENLEY; AL McCANDLESS; ROBERT DORNAN; WILLIAM DANNEMEYER; BOB BADHAM; BILL LOWERY; DAN LUNGREN; RON PACKARD; BILL MITCHELL and DUNCAN HUNTER.

2. Plaintiffs insert the following language after the words "16th Congressional District" appearing in paragraph 1 on page 2, line 28: "Plaintiffs Shumway, Pashayan, Lagomarsino, Thomas, Moorhead, Dreier, Lewis, McCandless, Dornan, Dannemeyer, Lowery, Lungren, Packard and Hunter are members of the California Republican Congressional Delegation and residents and registered Republican voters of the State of California. Plaintiffs Trobitz-Thomas, Herger, Landowski, Hite, Garza, McQuaid, Thakar, Eigenberg, Williams, LaCrone, Nash, Crevelt, Gallegly, Woolverton, Zerg, Baird, Kerns, Scrib-

ner, Adams, Johnson, Almquist, McMurray, Robertson, House, Henley, and Mitchell are registered Republican voters and residents of the State of California. At least one plaintiff votes in each of California's 45 Congressional Districts."

DATED: December 22, 1986

NIELSEN, HODGSON,
PARRINELLO & MUELLER

By /s/ JAMES R. PARRINELLO
JAMES R. PARRINELLO
Attorneys for Plaintiffs

APPENDIX G

Official Canvass of the Vote

November 4, 1986

General Election

Compiled by

MARCH FONG EU

Secretary of State

Summary of Votes Cast for Offices and Measures

Governor	
Bradley,Dem	2,781,714
Deukmejian,Rep-Inc	4,506,601
Miller,AI	50,547
Fuhrig,Lib	52,628
Munoz,P&F	51,995

Lieutenant Governor	
McCarthyDem-Inc	3,957,831
Curb,Rep	3,118,758
Griffin,AI	104,480
Almodovar,Lib	90,157
Kuhn,P&F	66,898

Secretary of State	
Eu,Dem-Inc	3,673,432
Nestande,Rep	3,149,359
Dietrich,AI	72,607
Winger,Lib	141,955
Garcia,P&F	97,808

Controller	
Davis,Dem	3,673,432
Campbell,Rep	3,149,359
Kudrovzeff,AI	72,607
Treynor,Lib	141,955
Haag,P&F	97,808

Treasurer	
Unruh,Dem-Inc	5,589,633
Short,AI	357,182
Cullen,Lib	569,280
Smith,P&F	240,451

Attorney General	
Van de Kamp,Dem-Inc	4,691,142
Gleason,Rep	2,118,627
Odom,AI	81,262
Newman,Lib	128,906
Evans,P&F	88,739

Equalization, 1st District	
Bennett,Dem-Inc	1,062,676
Prat,Rep	745,649
Novak,P&F	89,051

Equalization, 2nd District	
Collis,Dem-Inc	918,090
Parrish,Rep	724,618
Lovato,P&F	65,167

Equalization, 3rd District	
Buckley,Dem	591,281
Dronenburg,Rep-Inc	1,025,565
Sanders,Lib	57,532
Quirk,P&F	38,229

Equalization, 4th District	
Carpenter,Dem	797,399
Jones,Rep	514,848
Malmberg,Lib	37,312
McCammon,P&F	38,993

United States Senator	
Cranston,Dem-Inc	3,646,672
Zschau,Rep	3,541,804
Vallen,AI	109,856
McKinley,Lib	66,261
Kangas,P&F	33,869

Congress, 1st District	
Bosco,Dem-Inc	138,174
Sampson,Rep	54,436
McFarland,P&F	12,149

Congress, 2nd District	
Swendiman,Dem	74,602
Herger,Rep	109,758
Pendery,Lib	4,054

Congress, 3rd District	
Matsui,Dem-Inc	158,709
Landowski,Rep	50,265

Congress, 4th District	
Fazio,Dem-Inc	128,364
Hite,Rep	54,596

Congress, 5th District	
Burton,Dem-Inc	122,688
Garza,Rep	36,039
Grove,Lib	2,409
Zuur,P&F	2,078

Congress, 6th District	
Boxer,Dem-Inc	142,946
Ernst,Rep	50,606

Congress, 7th District	
Miller,Dem-Inc	124,174
Thakar,Rep	62,379

Congress, 8th District	
Dellums,Dem-Inc	121,790
Eigenberg,Rep	76,850
Manuel,P&F	4,295

Congress, 9th District	
Stark,Dem-Inc	113,490
Williams,Rep	49,300

Congress, 10th District	
Edwards,Dem-Inc	84,240
La Crone,Rep	31,826
Cardestam,Lib	1,797
Mayer,P&F	1,701

Congress, 11th District	
Lantos,Dem-Inc	112,380
Quraishi,Rep	39,315

Congress, 12th District	
Weil,Dem	69,564
Konnyu,Rep	111,252
White,Lib	6,227

Congress, 13th District	
Mineta,Dem-Inc	107,696
Nash,Rep	46,754
Congress, 14th District	
Steele,Dem	53,597
Shumway,Rep-Inc	146,906
Daniel,Lib	4,658
Congress, 15th District	
Coelho,Dem-Inc	93,600
Harner,Rep	35,793
Harris,Lib	2,382
Congress, 16th District	
Panetta,Dem-Inc	128,151
Darrigo,Rep	31,386
Anderson,Lib	1,944
Wright,P&F	2,017
Congress, 17th District	
Hartnett,Dem	58,682
Pashayan,Rep-Inc	88,787
Congress, 18th District	
Lehman,Dem-Inc	101,480
Crevelt,Rep	40,907
Congress, 19th District	
Norris,Dem	45,619
Lagomarsino,Rep-Inc	122,578
Hasara,Lib	2,341
Congress, 20th District	
Moquin,Dem	49,027
Thomas,Rep-Inc	129,989
Congress,21st District	
Saldana,Dem	54,497
Gallegly,Rep	132,090
Wiener,Lib	6,504
Congress, 22nd District	
Simmons,Dem	44,036
Moorhead,Rep-Inc	141,096
Bergland,Lib	3,114
Lorimer,P&F	2,930
Congress, 23rd District	
Beilenson,Dem-Inc	121,468
Woolverton,Rep	58,746
Rhodes,Lib	2,019
Hopke,P&F	2,521
Congress, 24th District	
Waxman,Dem-Inc	103,914
Abrahams,Lib	8,871
Green,P&F	5,388
Congress, 25th District	
Roybal,Dem-Inc	62,692
Hardy,Rep	17,558
Brown,Lib	2,163
Congress, 26th District	
Berman,Dem-Inc	98,091
Kerns,Rep	52,662
Congress, 27th District	
Levine,Dem-Inc	110,403
Scribner,Rep	59,410
Leathers,Lib	1,429
O'Connor,P&F	2,078
Congress, 28th District	
Dixon,Dem-Inc	92,635
Adams,Rep	25,858
Johnson,Lib	2,837
Congress, 29th District	
Hawkins,Dem-Inc	78,132
Van de Brooke,Rep	13,432
Boctor,Lib	851

Congress, 30th District

Martinez,Dem-Inc	59,369
Almquist,Rep	33,705
Goldsworthy,Lib	1,911

Congress, 31st District

Dymally,Dem-Inc	77,126
McMurray,Rep	30,322
Duren,P&F	2,333

Congress, 32nd District

Anderson,Dem-Inc	90,739
Robertson,Rep	39,003
Donohue,P&F	2,799

Congress, 33rd District

Hempel,Dem	44,312
Dreier,Rep-Inc	118,541
Noonan,P&F	2,500

Congress, 34th District

Torres,Dem-Inc	66,404
House,Rep	43,659

Congress, 35th District

Hall,Dem	38,322
Lewis,Rep-Inc	127,235

Congress, 36th District

Brown,Dem-Inc	78,118
Henley,Rep	58,660

Congress,37th District

Skinner,Dem	69,808
McCandless,Rep-Inc	122,416

Congress, 38th District

Robinson,Dem	50,625
Dornan,Rep-Inc	66,032
Connelly,Lib	2,807

Congress, 39th District

Vest,Dem	42,377
Dannemeyer,Rep-Inc	131,603
Boeheim,P&F	2,752

Congress 40th District

Sumner,Dem	75,664
Badham,Rep-Inc	119,829
Sears,P&F	5,025

Congress, 41st District

Kripke,Dem	59,816
Lowery,Rep-Inc	133,566
Rider,Lib	3,541

Congress 42nd District

Blackburn,Dem	47,586
Lungren,Rep-Inc	140,364
McClatchy,P&F	4,761

Congress, 43rd District

Chirra,Dem	45,078
Packard,Rep-Inc	137,341
Avery,Lib	5,370

Congress 44th District

Bates,Dem-Inc	70,557
Mitchell,Rep	36,359
Thompson,Lib	1,244
Isaacson,P&F	1,676

Congress, 45th District

Ryan,Dem	32,800
Hunter,Rep-Inc	118,900
Schwartz,Lib	2,975

Senate, 2nd District

Keene,Dem-Inc	115,756
Brann,Rep	84,580
Elizondo,P&F	5,497

Senate, 4th District

Cibula,Dem	82,733
Nielsen,Rep-Inc	150,060

Senate, 6th District

Greene,Dem-Inc	138,571
Smoley,Rep	90,759

United States Representative in Congress

First Congressional District

County	Douglas H Bosco Dem-Inc	Floyd G Sampson Rep	Elden McFarland P&F
Del Norte	4,587	1,513	220
Humboldt	29,047	9,217	2,225
Lake	9,618	4,838	347
Mendocino	14,953	6,597	2,405
Napa	15,217	8,940	644
Sonoma	64,752	23,331	6,308
District Totals	138,174	54,436	12,149

Second Congressional District

County	Stephen C 'Steve' Swendiman Dem	Wally Herger Rep	Harry Hugh Pendery Lib
Butte	21,676	33,061	1,556
Colusa	1,288	3,264	46
Glenn	2,347	4,575	114
Lake	369	561	23
Napa	4,482	7,077	240
Nevada	1,233	3,253	133
Shasta	19,687	20,761	817
Siskiyou	6,939	8,055	245
Sutter	4,287	10,340	256
Tehama	5,967	8,392	256
Trinity	2,544	2,785	159
Yuba	3,783	7,634	209
District Totals	74,602	109,758	4,054

Third Congressional District

County	Robert T Matsui Dem-Inc	Lowell Landowski Rep
Sacaramento	158,709	50,265

Fourth Congressional District

County	Vic Fazio Dem-Inc	Jack D Hite Rep
Sacramento	62,721	29,123
Solano	34,173	15,051
Yolo	31,470	10,422
District Totals	128,364	54,596

Fifth Congressional District

County	Sala Burton Dem-Inc	Mike Garza Rep	Samuel K Grove Lib	Theodore 'Ted' Zuur P&F
San Francisco	122,688	36,039	2,409	2,078

Sixth Congressional District

County	Barbara Boxer Dem-Inc	Franklin 'Harry' Ernst III Rep
Marin	61,090	29,069
San Francisco	45,354	7,202
Solano	17,119	6,043
Sonoma	19,383	8,292
District Totals	142,946	50,606

Seventh Congressional District

County	George Miller Dem-Inc	Rosemary Thakar Rep
Contra Costa	124,174	62,379

Eighth Congressional District

County	Ronald V Dellums Dem-Inc	Steven Eigenberg Rep	Lawrence R Manuel P&F
Alameda	102,528	38,012	3,247
Contra Costa	19,262	38,838	1,048
District Totals	121,790	76,850	4,295

Ninth Congressional District

County	Fortney Pete Stark Dem-Inc	David M Williams Rep
Alameda	113,490	49,300

Tenth Congressional District

County	Don Edwards Dem-Inc	Michael R La Crone Rep	Perr Cardestam Lib	Bradley L Mayer P&F
Alameda	34,863	15,639	629	585
Santa Clara	49,377	16,187	1,168	1,116
District Totals	84,240	31,826	1,797	1,701

Eleventh Congressional District

County	Tom Lantos Dem-Inc	G M 'Bill' Quraishi Rep
San Mateo	112,380	39,315

Twelfth Congressional District

County	Lance T Weil Dem	Ernest L Konnyu Rep	Bill White Lib
San Mateo	8,244	16,629	845
Santa Clara	55,952	86,813	4,697
Santa Cruz	5,368	7,810	685
District Totals	69,564	111,252	6,227

Thirteenth Congressional District

County	Norman Y Mineta Dem-Inc	Bob Nash Rep
Santa Clara	107,696	46,754

Fourteenth Congressional District

County	Bill Steele Dem	Norm Shumway Rep-Inc	Bruce A Daniel Lib
Alpine	123	289	8
Amador	2,465	7,107	148
El Dorado	8,249	25,936	663
Lassen	2,435	4,851	109
Modoc	947	2,488	81
Nevada	5,343	16,293	891
Placer	14,103	33,948	1,801
Plumas	1,738	4,442	148
San Joaquin	17,706	50,536	774

Fifteenth Congressional District

County	Tony Coelho Dem-Inc	Carol Harner Rep	Richard M Harris Lib
Fresno	16,327	6,797	392
Mariposa	3,291	1,984	140
Merced	21,276	6,742	573
Stanislaus	52,706	20,270	1,277
District Totals	93,600	35,793	2,382

Sixteenth Congressional District

County	Leon E Panetta Dem-Inc	Louis Darrigo Rep	Bill Anderson Lib	Ron Wright P&F
Monterey	57,420	14,096	691	618
San Benito	5,192	1,833	126	214
San Luis Obispo	17,520	6,037	317	259
Santa Cruz	48,019	9,420	810	926
District Totals	128,151	31,386	1,944	2,017

Seventeenth Congressional District

County	John Hartnett Dem	Charles 'Chip' Pashayan Rep-Inc
Fresno	20,484	34,407
Kern	6,790	7,152
Kings	7,231	10,344
Tulare	24,177	36,884
District Totals	58,682	88,787

Eighteenth Congressional District

County	Richard H Lehman Dem-Inc	David C Crevelt Rep
Calaveras	6,685	3,939
Fresno	48,007	16,765
Madera	9,190	5,423
Mono	1,438	1,028
San Joaquin	25,974	8,905
Tuolumne	10,186	4,847
District Totals	101,480	40,907

Nineteenth Congressional District

County	Wayne B Norris Dem	Robert J 'Bob' Lagomarsino Rep-Inc	George Hasara Lib
Santa Barbara	28,277	76,388	1,339
Ventura	17,342	46,190	1,002
District Totals	45,619	122,578	2,341

Twentieth Congressional District

County	Jules H Moquin Dem	William M Thomas Rep-Inc
Inyo	1,727	4,773
Kern	30,158	79,508
Los Angeles	6,230	20,381
San Luis Obispo	10,912	25,327
District Totals	49,027	129,989

Twenty-first Congressional District

County	Gilbert R Saldana Dem	Elton Gallegly Rep	Daniel Wiener Lib
Los Angeles	25,452	56,249	3,213
Ventura	29,045	75,841	3,291
District Totals	54,497	132,090	6,504

Twenty-second Congressional District

County	John G Simmons Dem	Carlos J Moorhead Rep-Inc	Jona Joy Bergland Lib	Joel Lorimer P&F
Los Angeles	44,036	141,096	3,114	2,930

Twenty-third Congressional District

County	Anthony C Beilenson Dem-Dem	George Woolverton Rep	Taylor Rhodes Lib	Tom Hopke P&F
Los Angeles	121,468	58,746	2,019	2,521

Twenty-fourth Congressional District

County	Henry A Waxman Dem-Inc	George Abrahams Lib	James Green P&F
Los Angeles	103,914	8,871	5,388

Twenty-fifth Congressional District

County	Edward R Roybal Dem-Inc	Gregory L Hardy Rep	Ted Brown Lib
Los Angeles	62,692	17,558	2,163

Twenty-sixth Congressional District

County	Howard L Berman Dem-Inc	Robert M Kerns Rep
Los Angeles	98,091	52,662

Twenty-seventh Congressional District

County	Mel Levine Dem-Inc	Rob Scribner Rep	Larry Leathers Lib	Thomas L O'Connor Jr P&F
Los Angeles	110,403	59,410	1,429	2,078

Twenty-eighth Congressional District

County	Julian C Dixon Dem-Inc	George Adams Rep	Howard Johnson Lib
Los Angeles	92,635	25,858	2,837

Twenty-ninth Congressional District

County	Augustus F 'Gus' Hawkins Dem-Inc	John Van de Brooke Rep	Waheed Boctor Lib
Los Angeles	78,132	13,432	851

Thirtieth Congressional District

County	Matthew G 'Marty' Martinez Dem-Inc	John W Almquist Rep	Kim J Goldsworthy Lib
Los Angeles	59,369	33,705	1,911

Thirty-first Congressional District

County	Mervyn M Dymally Dem-Inc	Jack McMurray Rep	B Kwaku Duren P&F
Los Angeles	77,126	30,322	2,333

Thirty-second Congressional District

County	Glenn M Anderson Dem-Inc	Joyce M Robertson Rep	John S Donohue P&F
Los Angeles	90,739	39,003	2,799

Thirty-third Congressional District

County	Monty Hempel Dem	David Dreier Rep-Inc	Mike Noonan P&F
Los Angeles	44,312	118,541	2,500

Thirty-fourth Congressional District

County	Esteban E Torres Dem-Inc	Charles M House Rep
Los Angeles	66,404	43,659

Thirty-fifth Congressional District

County	R 'Sarge' Hall Dem	Jerry Lewis Rep-Inc
Los Angeles	2,365	5,389
San Bernardino	35,957	121,846
District Totals	38,322	127,235

Thirty-sixth Congressional District

County	George E Brown Jr Dem	Bob Henley Rep-Inc
Riverside	23,161	15,879
San Bernardino	54,957	42,781
District Totals	78,118	58,660

Thirty-seventh Congressional District

County	David E 'Dave' Skinner Dem	Al McCandless Rep-Inc
Riverside	69,808	122,416

Thirty-eighth Congessional District

County	Richard Robinson Dem	Robert K 'Bob' Dornan Rep-Inc	Lee Connelly Lib
Los Angeles	5,928	8,762	292
Orange	44,697	57,270	2,515

Thirty-ninth Congressional District

County	David D Vest Dem	William E 'Bill' Dannemeyer Rep-Inc	Frank Boeheim P&F
Orange	42,377	131,603	2,752

Fortieth Congressional District

County	Bruce W Sumner Dem	Robert E Badham Rep-Inc	Steve Sears P&F
Orange	75,664	119,829	5,025

Forty-first Congressional District

County	Dan Kripke Dem	Bill Lowery Rep-Inc	Dick Rider Lib
San Diego	59,816	133,566	3,541

Forty-second Congressional District

County	Michael P Blackburn Dem	Daniel E Lungren Rep-Inc	Kate McClatchy P&F
Los Angeles	24,714	76,202	2,517
Orange	22,872	64,162	2,244
District Totals	47,586	140,364	4,761

Forty-third Congressional District

County	Joseph Chirra Dem	Ron Packard Rep-Inc	Phyllis Avery Lib
Orange	12,089	45,454	1,753
San Diego	32,989	91,887	3,617
District Totals	45,078	137,341	5,370

Forty-fourth Congressional District

County	Jim Bates Dem-Inc	Bill Mitchell Rep	Dennis Thompson Lib	Shirley Isaacson P&F
San Diego	70,557	36,359	1,244	1,676

Forty-fifth Congressional District

County	Hewitt Fitts Ryan Dem	Duncan Hunter Rep-Inc	Lee Schwartz Lib
Imperial	5,187	12,905	446
San Diego	27,613	105,995	2,529
Total	32,800	118,900	2,975